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EXILE WITHIN BORDERS: A STUDY OF COMPLINACE WITH THE INTERNATIONAL REGIME TO PROETCT INTERNALLY DISPLACED PERSONS

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by

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Dedication

To Patricia

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Exile within Borders: A study of compliance with the international regime to protect internally displaced persons

Gabriel Cardona-Fox, Ph.D.

The University of Texas at Austin, 2015

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The UN Guiding Principles for the Protection of Internally Displaced Persons (GP), introduced before the UN General Assembly in 1998, are the cornerstone of the international regime for the protection of internally displaced persons (IDPs). Much has been written about their unusual and unlikely development, yet very little is known about their effectiveness in altering state behavior towards their displaced populations. This dissertation takes a systematic and global look at patterns of commitment and compliance with the IDP regime and identifies forces that have driven states to comply with them.

This dissertation addresses: (1) when and why countries voluntarily bind their sovereignty by instituting the GP into domestic law, and (2) if countries that have instituted the GP into law in fact comply with them.

I tackle these questions using mixed methods. First, I present a large-n statistical analysis of all documented cases of displacement in the past twenty years to test the merits of competing theories of norm diffusion. Then I trace the evolution of Colombia's response to internal displacement from denial of the crisis to deep compliance with the IDP regime.

Both the first and second stages of the dissertation find that, above all, regional factors are key to the diffusion of IDP norms. This is evidenced by the clear pattern of

regional clustering of commitment found in the statistical analysis and by the significant influence exerted by Latin American regional politics found in Colombia's evolving response to its displacement crisis.

This study should be of particular interest to policy practitioners and activists involved in addressing the problem of internal displacement and protecting the rights of IDPs.

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Chapter 1: Introduction

Internal forced displacement presents one of the most pressing humanitarian challenges in the world today.[1] Forced to abandon their homes and livelihoods, and often persecuted by their own governments, internally displaced persons ("IDPs") constitute some of the most helpless and neglected people on earth. Former UN Secretary-General Kofi Annan referred to them as "the most vulnerable of the human family" (Forward to GP, 2004). Whether fleeing combat in Ukraine, Syria, North Africa, or the Central African Republic, rarely does a week pass when IDPs are not the subject of front-page news.

As I completed this study, the Internal Displacement Monitoring Center (IDMC) in Geneva estimated that over 9,500 Syrians were fleeing their homes every day. The majority of these forced migrants will be joining the ranks of close to 6.5 million Syrians, or a staggering 30 percent of the country's population that has been effectively exiled within its own borders since the conflict erupted in 2011.[2] Once displaced, these IDPs rarely find adequate food or shelter. The majority of them are left out in the cold, living in makeshift settlements in camps under dire conditions. They have been the targets of bombings by both rebel and government forces. The Syrian government refuses to formally recognize these people as IDPs, and continues to deny them access to any sort of cross-border humanitarian assistance.[3]

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[1] The *UN Guiding Principles on Internal Displacement* define internal displacement as a situation in which "persons or groups of persons […] have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border" (Guiding Principles on Internal Displacement, United Nations, 1998, E/CN.4/1998/53/Add.2).

[2] See: IDMC: http://www.internal-displacement.org/middle-east-and-north-africa/summary/

[3] See: http://www.syriadeeply.org/articles/2014/05/5427/syria-worlds-biggest-idp-crisis/

Syrians, of course, are not alone. It is estimated that as of January 2014 over 33.3 million people in over fifty countries have been forced to migrate within their own borders because of conflict and gross human rights violations.[4] This represents almost twice the size of the world's cross-border refugee population, which is estimated to be 16.7 million.[5]

Although they flee their homes for largely the same reasons as international refugees, IDPs are not protected by the same international treaties and institutions as refugees because they do not cross any internationally recognized borders. In fact, until the late 1990s, IDPs were not protected by any sort of international institutional or legal framework. Historically, responsibility for addressing internal displacement fell exclusively upon domestic authorities.

Beginning in the 1980s, as IDPs began to significantly outnumber cross-border refugees, the international community began to address this gap for the first time. During this period the idea of national sovereignty also began to be challenged to imply a minimum of state responsibility for the wellbeing of countries' civilian population. The 1990s and 2000s saw the emergence of what was to become the international regime to protect IDPs. The centerpiece of this regime was an innovative set of non-biding guidelines, or "soft law," known as the *UN Guiding Principles on Internal Displacement* ("GP"). In a fascinating turn of events, these principles were drafted by a group of legal experts and human rights activists, with very little international support, largely outside of the traditional inter-governmental treaty-making frameworks. According to the principal authors of the GP, this may have been the first time ever that international

[4] See: http://www.internal-displacement.org/global-figures (last visited 9/3/14).
[5] See: http://www.internal-displacement.org/global-figures

experts outside the traditional intergovernmental process drafted, reviewed and completed a major international legal document (Cohen & Deng, 2008).

Although much has been written about the fascinating genesis of the GP, very little is known about its effectiveness in altering state behavior towards their IDPs or, more generally, in improving the lives of these people (Bagshaw, 2005; Phuong, 2004; Weiss & Korn, 2006). Aside from some scattered anecdotal evidence there is little empirical proof that "soft laws," such as the GP, really matter. Nevertheless, a number of norm entrepreneurs have sought to adopt the international "soft law" approach to address a myriad of other international problems, both within and outside of the world of forced migration (Betts, 2010b).

Why do states choose to commit to and comply with international rules that are essentially non-binding and may prove politically costly? The fact is that very little is known about why and when countries choose to comply with the GP or, more generally, with other "non-binding" international humanitarian norms. This study seeks to begin addressing this gap by taking the first systematic look at international patterns of compliance with the IDP in order to identify the forces that drive countries to commit to the regime and also by tracing the process through which Colombia – a country plagued with one of the largest displacement crises in the world – also came to be a showcase of compliance with the IDP regime.

HISTORY OF THE INTERNATIONAL IDP REGIME

The *UN Guiding Principles on Internal Displacement* constitute a list of thirty generally worded rights and guarantees relevant to the protection of the internally displaced persons in all phases of displacement (See Appendix A). These principles are

intended to guide countries' efforts to provide protection against arbitrary displacement, to protect and assist IDPs during displacement, and set in place guarantees for safe return, resettlement and reintegration of displaced populations. Although in and of themselves these principles are non-binding, they both reflect and are consistent with international law.

The international regime to protect IDPs had its beginning in the 1990s. During the 1980s, as the number of internally displaced persons surpassed by far the number of cross-border refugees the international community began to take note of a serious normative humanitarian gap – specifically the fact that there were no international norms or institutions in place to protect and assist IDPs.[6] In 1992, after the UN Secretary General Boutros Boutros-Gali submitted the first analytical report on IDPs to the UN's Commission on Human Rights in Geneva the Commission authorized him (through resolution 1992/73) to appoint a special representative to explore "*views and information from all Governments on the human rights issues related to internally displaced persons, including an examination of existing international human rights, humanitarian laws and standards and their application to the protection of the relief and assistance of internally displaced persons*" (Weiss & Korn, 2006). Butros-Ghali appointed Francis M. Deng, a former Sudanese diplomat and a senior fellow at the Brookings Institution to serve as the first Representative to the Secretary General for Internal Displacement ("RSG"). During his time as RSG, and with the help of an extensive team of experts from academia and Brookings, Deng drafted the GP. The Guiding Principles were finalized by a team of fifty legal experts at a conference in Vienna hosted by the Austrian government, one of

[6] As pointed out by Weiss & Korn (2006), at the end of the Cold War both the nature of wars and the politics of asylum changed radically. Fewer political points could be scored by accepting refugees, especially when so many of them came from poorest countries in the world instead of Eastern Europe. Refugee numbers diminished while IDPs shot up still further; particularly in Africa where stability crumbled as superpowers stopped jockeying in an ideological war and virtually abandoned the continent.

the GP's leading sponsors, and were then officially presented by the RSG to the UN in 1998.

As the RSG pointed out from the outset, even though the Guiding Principles were based on existing international laws, they did not constitute "binding instruments" (Schmidt, 2004). The Representative and his team chose to employ a "soft law" approach rather than to call for the drafting of a formal treaty on which to build a protection regime for IDPs. This decision was made because, among other things, they believed that treaty negotiations could have taken a very long time. A formal treaty would have required ratification by every country (which was not guaranteed), and could possibly have watered down some important norms during a negotiating process in which countries could seize the opportunity to object to existing international human rights and humanitarian law (Kalin, 2001). Many legal scholars have agreed with the RSG's approach and have argued that a "soft law" approach could in fact prove to be more effective in the long run than "hard law" (Bagshaw, 2005; Raustiala, 2005; Weiss & Korn, 2006).

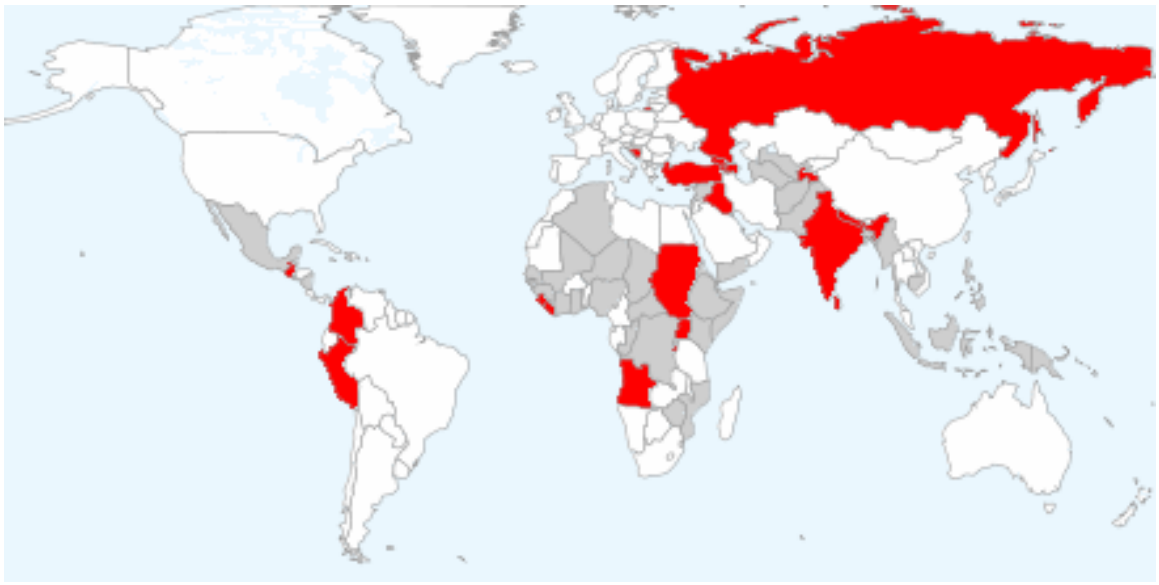
Although a number of countries (led by Egypt, Sudan, and India) initially objected to the manner in which the Guiding Principles were developed by non-governmental actors, the principles were generally well received.[7] At the behest of Sérgio Vieira de Mello, who at the time was serving as Under-Secretary General for Humanitarian Affairs, the Inter-Agency Standing Committee (IASC) – the primary mechanism for inter-agency coordination of humanitarian assistance – endorsed and

[7] To allow their concerns to be addressed, the Swiss government hosted a series of meetings, beginning in 2001, by the end of which the dissenting states abandoned their reservations and expressed support for the GP. In particular, they were reassured that the experts involved had not created new law but had mostly compiled and restated what had already been negotiated and agreed to by governments. According to Cohen and Deng (2008), they were also influenced by the many governments of the Group of 77 developing nations who quickly found the principles to be a valuable tool in dealing with internal displacement in their own countries.

disseminated the Guiding Principles among the major UN humanitarian and development agencies and international NGOs and began applying them in the field (Cohen & Deng, 2008). At the world summit in 2005, then UN Secretary General Kofi Annan referred to the principles as setting the "basic international norm" for the protection of IDPs. A summit outcome resolution referred to them as "an important international framework" (UN, 2005). Since then, the General Assembly, the Security Council, and the Commission on Human Rights have all acknowledged or recognized these principles.

Since the GP came into being in 1998 a number of countries have signaled their commitment to the regime. As of 2010, 21 countries – approximately a third of all countries with internal displacement crises since 1990 – had developed laws and policies aimed at translating some of the abstract provisions of the Guiding Principles into directives at the national level. This includes among others: Colombia, Sri Lanka, Uganda and Turkey (IDMC, 2011).

Figure 1: IDP Crises 1990-2010



Missing Laws on IDPs Adopted Laws on IDPs

Russia	1993	Azerbaijan	1999	India	2003
Guatemala	1994	Burundi	2000	Nepal	2004
Tajikistan	1994	Angola	2001	Peru	2004
Bosnia & H	1995	Sierra Leone	2001	Uganda	2004
Georgia	1996	Liberia	2002	Turkey	2004
Colombia	1997	Serbia	2002	Iraq	2008
Armenia	1998	Sri Lanka	2002	Sudan	2009

The proliferation of domestic laws and polices is a critical step for the development of the regime. Because the regime depends primarily on domestic governments to assume responsibility over the protection of IDPs, in order for the Guiding Principles to become translated into concrete action on the ground they had to be internalized into countries' domestic legislation (Kalin, 2005). Moreover, the framers of the regime hoped that these norms would eventually harden and become binding for all

countries through the development of customary international laws as a critical number of countries adopted laws on internal displacement. To this end, Deng and the two succeeding RSGs launched an ambitious series of country visits, workshops and consultations. Despite their efforts, many countries with internal displacement have yet to adopt any sort of domestic framework to protect IDPs even though they do not openly object to the principles per se.

Another strategy adopted by the promoters of the GP has been to harden these norms at the regional level. In the presence of an often unwilling, and ineffective UN system, the promoters of the GP realized that regional institutions could become the first line of defense in preventing situations of internal displacement and protecting IDPs (Cohen & Deng, 1998b). To this end, the Organization of American States and the Council of Europe have recommended their member states to adopt the Guiding Principles through national legislation.[8] Moreover, Africa has seen two important regional initiatives. In 2006 the *Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons* obliged its eleven signatories, including Kenya, Uganda, Central African Republic, Sudan the Republic of Congo and the Democratic Republic of the Congo (DRC) to incorporate the Guiding Principles into Domestic Law.[9] In 2009 the African Union adopted the *Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (better known as the "*Kampala Convention"*), which binds all union members to provide legal protections for the rights and well being of IDPs according to the GP. This convention entered into force in December 2012, and was the

[8] In 2006, at the instigation of the Parliamentary Assembly's Committee on Migration, Refugees and Population, the Committee of Ministers of the Council of Europe agreed to 13 recommendations on IDPs which underlined the obligation to establish legal protections for IDPs (Jonker, 2008).

[9] See: International Conference on the Great Lakes Region, "Protocol on the Protection and Assistance to Internally Displaced Persons" (2006). (http://www.refworld.org/pdfid/52384fe44.pdf).

first regional binding instrument ever developed for the protection and assistance of IDPs. This was also particularly significant because Africa is home to more than a third of the world's IDPs and includes three countries that have consistently figured among the five largest displacement crises in the world – Sudan, DRC and Somalia. [10]

A number of international development and humanitarian agencies began using the GP extensively, raising awareness and training practitioners on the application of the Principles and employing them as an advocacy tool and a checklist to monitor and assess the needs of IDPs. Most significantly, UNHCR directly incorporated the GP into its protection and human rights activities for IDPs. The IASC, an agglomeration of the major international humanitarian, development and human rights agencies, welcomed the principles and disseminated them by developing a number of tools based on the GP to provide operational guidance to their staff. These included a *Manual on Field Practice in Internal Displacement*, a *Framework for Durable Solutions for Internally Displaced Persons*, and the *IASC Handbook for the Protection of Internally Displaced Persons* (R. Cohen, 2013).

Sixteen years after their publication, the successful institutionalization of the Guiding Principles at the international level has indeed been impressive and encouraging, particularly given their unconventional genesis. Their acceptance and institutionalization at the international level, however, has not automatically translated into meaningful change in the countries with displacement. For countries to signal meaningful commitment to the regime they must, at a minimum, institute domestic legislation reflective of these principles. The fact that an important number of countries with

[10] (see: http://www.internal-displacement.org/assets/publications/2013/201312-af-kampala-convention-progress-report-thematic-en.pdf)

displacement have yet to institute such laws represents an important problem that raises concern over the long-term viability of this innovative "soft law" approach.

In practice, the international regime for the protection of IDPs is arguably quite weak. The GP in and of themselves are not binding. Their wording is purposely very general and vague. And, because the regime is based on "soft law," it lacks any sort of robust international enforcement and monitoring mechanisms. Despite the fact that the norm has been diffusing internationally, as predicted by constructivist theories of IR (Orchard, 2010b), which are explained latter, and that an increasing number of countries have take the GP seriously, compliance with the IDP regime has been patchy at best (IDMC, 2010).

Even among countries that have instituted domestic legislation in line with the GP, commitment has not necessarily translated into implementation or even compliance. As continuous reporting by the IDMC (2010) and the Brookings Project on Internal Displacement (Ferris, 2008) makes clear, there has been a notable gap between commitment and implementation of the of IDP norm-based laws and policies.

This suggests that commitment to and compliance with the GP may be driven by slightly different mechanisms. While it is very probable that commitment to these norms has been driven principally by many of the international processes of human rights norm diffusion suggested by international relations theory, implementation at the national level may be a different matter altogether which could be determined primarily by domestic, or even regional, factors.

This study represents a first attempt to address several important questions: (1) How effective have these Guiding Principles really been in the past fifteen years? (2) To what extent are countries really complying with them? (3) Why do some countries commit to the GP while others have not?

WHY IS STUDYING COMPLIANCE WITH THE GP IMPORTANT?

The research questions pursued in this study are driven simultaneously by theoretical, empirical and policy concerns. Theoretically, the regime presents a puzzle for international relations theory. The GP constitute an example of what has been referred to as "privately generated soft law" (Abbott, 2007). It is privately generated, in the sense that it was drafted and promoted primarily by non-state actors with the surprisingly limited participation of states. It is considered "soft" because the GP are legally non-binding and thus difficult to enforce. Unlike other regimes based on hard law, the IDP regime does not have an established international monitoring body to which countries are obliged to report. There is no system of sanctions or channels through which to investigate or settle grievances. The emerging regime also stands in opposition to some of the most established norms in international relations – the norms of national sovereignty and non-interference.[11] As such, the dominant paradigms in international relations such as neorealism (Gilpin, 1983; Mearsheimer, 1994; Morgenthau, 1948; Waltz, 1979) and neoliberal institutionalism (Keohane, 1984) have difficulty explaining why states would voluntarily bind their sovereignty by complying with such norms in the absence of coercion from stronger states or when transactional costs are high (Krasner, 1993).

The existing scholarship in international relations in general, and the field of human rights studies in particular, has focused primarily on studying patterns of compliance and the effectiveness of "hard law" instruments (binding international treaties and conventions) to the detriment of "soft law" instruments such as the GP (Landman,

[11] According to a statist perspective of international relations these represent the fundamental principles of international legitimacy. Since the peace of Westphalia (1648), the modern international system has been structured around the principles of sovereignty of the nation-state, which grants a state exclusive jurisdiction over its own territory and resources, including its population. In turn, sovereignty has implied the principle non-intervention in the internal affairs of other states (Donnelly, 2003).

2005; Risse-Kappen, Ropp, & Sikkink, 1999; Simmons, 2009).[12] Part of the reason may be that, because of their binding nature, hard laws are perceived as being more important or relevant to international politics. In contrast, disagreement exists as to what soft norms are and what compliance pull they exert (Shelton, 2007).

Soft laws such as the GP also present a significant empirical challenge. In many ways soft laws are "messier" and thus more difficult to study than hard law instruments. They create both conceptualization and measurement difficulties. Because their provisions are sometimes vague and lofty, indicators of compliance are tricky to operationalize. Because soft laws in general and the GP in particular lack well-established monitoring and enforcement mechanisms, the data on compliance is often scarce and selective. After more than a decade since the inception of the regime, and thanks to the efforts of the IDMC and the Brookings Project on internal displacement, enough data exist today to begin to analyze patterns of compliance with the GP.[13]

Very little empirical work has been done to study compliance with international norms on internal displacement. Most of the research to date has focused on studying the regime's surprising emergence (Bagshaw, 2005; Phuong, 2004; Weiss & Korn, 2006). Although there have been a number of brief qualitative case studies on individual countries (Cohen & Deng, 1998a; Ferris, Mooney, & Stark, 2011; Korn, 1999), to date no

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[12] There has been a significant body of scholarship on compliance with "soft law" instruments in the environmental regime. See for example: (Mitchell, 1994) And (Victor, Raustiala, & Skolnikoff, 1998) I maintain, however, that the environmental regime is dominated by problems of collective action which are virtually absent in the area of human rights regime so that environmental soft law is qualitatively different than soft law pertaining to human rights and humanitarian matters.

[13] The Internal Displacement Monitoring Center (IDMC), established in 1998 by the Norwegian Refugee Council (NRC), is the leading international body monitoring conflict-induced internal displacement worldwide. At the request of the United Nations, the Geneva-based IDMC runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries. Another important monitoring body is the Project on Internal Displacement at the Brookings Institution in Washington, DC. The Brookings-Bern Project on Internal Displacement was created to support the work of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons in carrying out the responsibilities of the mandate and promoting the dissemination and application of the GP. Together, these two bodies have made publicly available the most up to date information on the state of internal displacement crises and government responses.

one has performed an independent, systematic and global evaluation of patterns of compliance with the IDP regime. As Orchard (2010) notes, internal displacement remains an area where scant comparative research of government implementation policies has been done, making it a fruitful area for research (Orchard, 2010). Moreover, most efforts to study and monitor state behavior towards IDPs are being conducted by the same institutions and individuals who are charged with promoting the regime and in some cases were involved in drafting the GP in the first place. This poses a problem of objectivity and independence, in part because most of the empirical data generated is geared primarily towards promoting state reform rather than understanding state behavior. An independent, systematic and comprehensive evaluation of patterns of compliance with the IDP regime will be of interest to scholars interested in understanding the dynamics of forced migration, the power of privately generated soft law, as well as the evolving interpretation of the concept of national sovereignty and its voluntary relinquishment.[14]

Global policy concerns also drive this research project. The phenomenon of internal forced displacement represents an urgent and growing challenge to the international community not only because of obvious human rights and humanitarian concerns, but also because internal displacement has spillover effects into areas of international security, economic development, and international migration. As pointed out by Jan Egeland, former Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordination: "Forced to abandon their homes and livelihoods, the internally displaced are often the most forgotten and neglected people in the many forgotten and neglected emergencies around the world" (Egeland, 2004). Although they

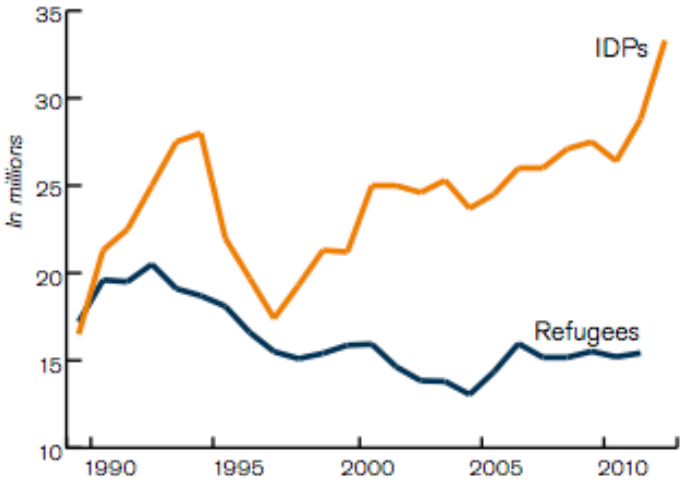
[14] The GP were written very much in the spirit of the normative reformulation of national sovereignty known as the responsibility to protect ("R2P"). As such, patterns of compliance with this legal instrument may empirically help shed some light as to the fate of this new norm.

are displaced for many of the same reasons, IDPs are seldom given the same international attention, assistance and protection as refugees who crossed international borders. Even in war settings, displaced persons suffer significantly higher rates of mortality than the general population. In Somalia in 1992, for example, the IDP rate of mortality was 50 times higher.[15]

Since the end of the Cold War the number of IDPs has grown dramatically, quickly surpassing the number of cross-border refugees by a factor of two to one (Weiss & Korn, 2006). Since 1997, the global number of IDPs has steadily increased from around 17.4 million to over 33.3 million in 2014. In comparison, the number of refugees has remained fairly stable, fluctuating between 13 million and 17 million during in the same period.[16] The number of IDPs seems certain to increase as a result of continuing political instability and the effects of climate change in many regions of the world.

[15] World Health Organization, "Internally Displaced Persons, Health and WHO." Paper presented at the humanitarian affairs segment of the substantive session of the Economic and Social Council for 2000, p. 5. Quoted in (Deng, 2007)
[16] See: http://www.internal-displacement.org/global-figures

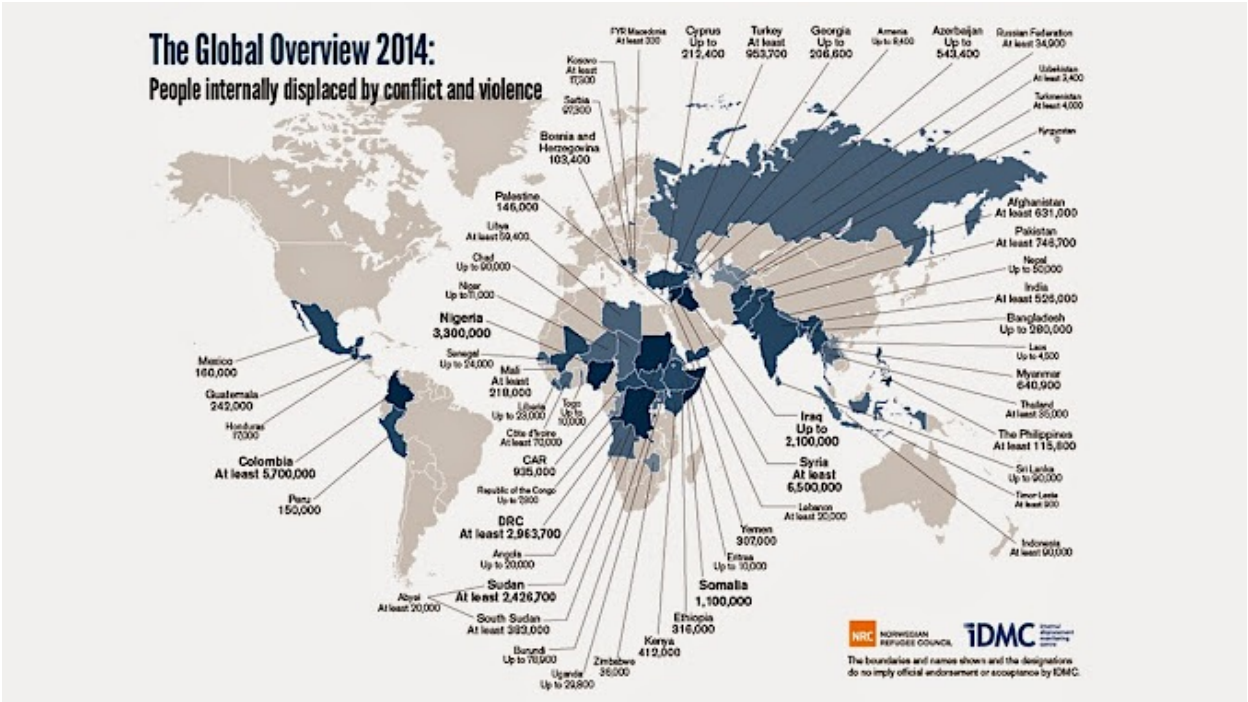
Figure 2: Proportion of Refugees and IDPs Fleeing Conflict and Violence 1989-2013



Source: IDMC (2014). Internal Displacement: Global Overview People Internally Displaced by Conflict and Violence

Internal displacement affects almost every region of the world. Over 50 countries have documented internally displaced populations. As of December 2013, the countries with the largest displacement related to conflict and violence were Syria (6.5 million), Colombia (5.7 million), Nigeria (3.3 million), DRC (2.9 million), Sudan (2.4 million), Iraq (2.1 million) and Somalia (1.1 million). The region with most IDPs was Sub-Saharan Africa (with 12.5 million) in 21 countries but there have also been significant and increasing numbers of IDPs in the Middle East and North Africa (9.1 million), the Americas (6.3 million) and South and South-East Asia (at least 3.2 million) (IDMC, 2014a).

Figure 3: Internal Displacement Crises as of December 2014



Source: IDMC (2014). Internal Displacement: Global Overview People Internally Displaced by Conflict and Violence

This study should also has direct relevance for policy practitioners and activists involved in addressing directly or indirectly the problem of internal displacement and protecting the rights of IDPs. Its findings should help a number of inter-governmental organizations (i.e. UN, the ICRC and regional bodies) as well as international non-governmental human rights and humanitarian organizations ("INGOs") to make the most effective use of their limited time and resources to influence state behavior. But, most importantly, this study's findings bring to light some of the weaknesses in compliance with the existing regime and suggest some needed changes, reforms, and/or tools – particularly in what involves the gap between norm acceptance and implementation.

There are several reasons why, in my view, the question of compliance with the IDP regime has not been adequately resolved in either the international relations or

forced migration literature. As noted by Betts (2009), despite the political and international nature of forced migration, issues relating to refugees and internal displacement are rarely addressed by scholars of international relations. This is puzzling because forced migration is enormously relevant to international relations.[17] Forced migration touches upon, among other things, matters relating to international cooperation, globalization, global public goods, ethnicity and nationalism, sovereignty, international organizations, regime complexity, security, the role of non-state actors, interdependence, regionalism, and North-South relations.

The area of forced migration studies has also failed to examine the issue of compliance within the IDP regime. Forced migration, in fact, has rarely taken a top-down look at issues of migration, that places the state at the center of analysis, or drawn upon the tools offered by IR to inform its analysis. As noted by Betts, "Forced Migration Studies have primarily drawn upon disciplines such as anthropology, sociology, geography and law to analyze the causes and consequences of human displacement. It has generally offered a 'bottom-up' perspective which places displaced people at the center of the analysis" (Betts, 2009) and thus fails to analyze issues of international norm compliance or implementation. In order to understand the macro-level structures and processes that determine state compliance with the new regime our research program adopts a "top-down" approach to analysis drawing from the analytical tools of IR.

[17] The International Organization for Migration defines forced migration as: "*A migratory movement in which an element of coercion exists, including threats to life and livelihood, whether arising from natural or man-made causes (e.g. movements of refugees and internally displaced persons as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects)*." (see: http://www.iom.int/cms/en/sites/iom/home/about-migration/key-migration-terms-1.html#Forced-migration)

HYPOTHESES AND MAIN ARGUMENT

What motivates countries to commit to and comply with intrusive international norms that are potentially costly and are essentially unenforceable? A significant body of literature in international relations and international law suggests two broad explanations. First, the rational-instrumentalist interpretation argues that states generally comply with international norms when they perceive them to be in their national or strategic interest (Gilpin, 1983; Keohane, 1984; Mearsheimer, 1994; Morgenthau, 1948; Waltz, 1979). Under this view, states principally follow a "logic of consequence." A second, more constructivist view, emphasizes that international rules sometimes have a special normative power or legitimacy pull that causes states to comply with them because they believe that, given their identity, it is the right thing to do (Katzenstein, 1996; Keck & Sikkink, 1998; Risse-Kappen et al., 1999; Wendt, 1999). States are then said to follow a "logic of appropriateness" (March & Olsen, 1998).

These two major schools, of course, offer pure or simplified models of understanding state compliance with international norms and soft law. In actuality states may be motivated by both forms of logic simultaneously or at different stages of a norm's cycle. These two logics are not mutually exclusive. This study's position is that these two schools do not offer necessarily alternative or competing explanations but rather synergistic approaches to understanding compliance. The more meaningful and policy-relevant question is when and how each of these mechanisms of compliance matters most thus helping us discern, for example, variation in the depth of countries' compliance with international soft law. Under what circumstances are countries more likely to commit and comply with the IDP regime? What factors increase the likelihood of commitment and compliance? It is important to understand, for example, when and why some countries may commit to the regime by instituting domestic legislation on internal

displacement but fail to implement it appropriately, and why and when others implement these laws and comply with them on a consistent basis. The following section elaborates on each broad theoretical approach, citing some examples and extrapolating some hypotheses that may be tested in the case of compliance with the GP.

Rationalist-Instrumentalism

The rationalist-instrumentalist approach, characteristic of the neo-realists and neo-liberal schools in international relations (IR), (Gilpin, 1983; Keohane, 1984; Krasner, 1993; Mearsheimer, 1994; Morgenthau, 1948; Waltz, 1979) argues that in an anarchic environment states engage in a cost/benefit analysis that focuses on material interests and external constraints when determining whether to comply with international norms.[18] To one extreme of the rational-instrumentalist understanding of IR is the belief that compliance with sovereignty-constraining norms, such as human rights laws, can only be the result of coercion by more powerful states that use their material power to impose their will on weaker and more dependent countries (Krasner, 1993). While in principle this should bode well for human rights norms, such as the GP, given that the United States and European Union have relatively good human rights records, powerful countries are rarely consistent in their application of human rights questions to their foreign policy and they rarely grant human rights questions priority (Neumayer, 2005).

A more nuanced rationalist-instrumental theory acknowledges that hegemonic powers may play a key role in norm diffusion through the exercise of both material and

[18] Although there are significant differences between the neo-realists and neo-liberal schools, primarily surrounding the importance of relative gains over absolute gains, for our purpose both approaches can be collapsed under the same neo-utilitarian umbrella. See (Ruggie, 1998)

normative influence on weaker states. According to this theory socialization[19] occurs primarily after wars and political crises, periods marked by international turmoil and restructuring as well as the fragmentation of ruling coalitions and legitimacy crises at the domestic level. Socialization is distinct from, but not independent of coercion manifested as the manipulation of material incentives (Ikenberry & Kupchan, 1990). The rational-instrumentalist understanding of IR thus suggests three broad international mechanisms in which material interests and constraints may influence outcomes and which may be tested in the case of the GP: coercion, issue-linkage, and cooperation.

States may commit to and implement the GP because they are coerced by other more powerful countries or even international institutions through the use of positive incentives and penalties ("sticks and carrots"). Mechanisms of coercion may include the use of military force, the threat of economic or military sanctions and/or the promise of military and economic assistance. Even some constructivists suggest that material incentives and threats are often important at the early stages of norm diffusion (Finnemore & Sikkink, 1998; Keck & Sikkink, 1998; Risse-Kappen et al., 1999). We would expect countries that are under military occupation (such as Iraq and Afghanistan), or have a significant foreign military presence (or UN peace-keeping mission), and which are of particular strategic importance to western powers inclined in addressing internal displacement in order to achieve peace and political stability to be most likely to experience this type of coercion.

[19] Broadly defined, "socialization" is the process by which social interaction leads novices to endorse expected ways of thinking, feeling and acting (Johnston, 2008). It involves the transmission of rules of socially appropriate behavior for actors. In international relations, socialization is simply defined as the process by which international norms are internalized by states and their leaders, assuming a "taken for granted" nature, and implemented domestically. (Ikenberry & Kupchan, 1990; Risse, 1997; Risse & Sikkink, 1999).

Another more subtle mechanism of instrumental pressure involves the explicit or implicit linkage of state behavior towards human rights, more generally, and towards issues of internal displacement more specifically, with other areas of strategic importance to targeted countries (E. B. Haas, 1980; Lohmann, 1997). This may occur when international organizations, such as the European Union (EU), NATO or the Organization for Security and Cooperation in Europe (OSCE), make accession to membership conditional on the attainment of certain human rights standards or when powerful countries insert human rights provisions into preferential trade agreements (E. Hafner-Burton, 2009).

A third possible rational-instrumentalist mechanism of compliance involves opportunities for voluntary cooperation. Although internal displacement, like other human rights issues, can be conceived as an issue primarily of domestic concern it is likely that some cases of internal displacement produces significant externalities or need for international cooperation. Displacement crises can affect the political stability of neighboring countries either because IDPs threaten to burden a neighbor by migrating across borders or because IDP camps in a neighboring country become a source of logistical support and recruitment for local insurgency groups (Terry, 2002). Efforts to negotiate a binding agreement for the protection of IDPs in the Great Lakes region of Africa, for example, were largely driven by material incentives to solve a collective action problem (Beyani, 2008). However, such opportunities for cooperation are likely to be rare and largely confined to cases where displacement is more concentrated and borders are more porous.

Constructivism

Constructivist theories in IR emphasize mechanisms that draw on the normative power of international rules independent of the exercise of state power. Compliance is often less a matter of rational calculation or imposed constraint than one of internalized identities and norms of appropriate behavior. In these cases policymakers are said to follow a "logic of appropriateness" (March & Olsen, 1998). Under this view, states comply with international norms because they view them as legitimate or appropriate (Katzenstein, 1996; Keck & Sikkink, 1998; Risse-Kappen et al., 1999; Wendt, 1999). Many theories of compliance in the international legal literature, most notably Frank's "legitimacy theory" (1990) and Koh's "theory of obedience" (1997, 1998) also adopt similar normative explanations of state behavior.[20] Some constructivists, however, do recognize that at the beginning, norms often require some sort of material incentives or coercion to prompt states to commit even if, according to their own perspective, states do not really intend to comply with the norms (Keck & Sikkink, 1998).

Cultural Match

Constructivists have argued that compliance with an international norm is more likely to occur when there is some sort of "cultural match" between the norm and the target country. States are most likely to accept a rule's legitimacy if it resonates with a country's traditions, habits and values as embodied in their laws and institutions (Acharya, 2004; Checkel, 1999; Gurowitz, 1999; Hurd, 1999; Risse & Sikkink, 1999).[21] Checkel (1999) defines "cultural match" as "a situation where the prescriptions embodied

[20] Also see: (Chayes & Chayes, 1993) and (Goodman & Jinks, 2004)

[21] According to Busby, different terms describe this same concept: grafting (Price), cultural match (Cortell & Davis, Checkel) fit (Kingdon), the nature of political discourse (Hall), resonance (Snow, Ikenberry), political culture (Risse-Kappen), legitimacy (Jacobsen), concordance (Legro), congruence (Acharya). See (Busby, 2007)

in an international norm are convergent with domestic norms, as reflected in discourse, the legal system (constitutions, judicial codes, laws), and bureaucratic agencies (organizational ethos and administrative procedures)."

Constructivst theories of IR specify two basic mechanisms of state socialization and norm diffusion. Both mechanisms involve the actions of individuals ("norm entrepreneurs") and international organizations such as international tribunals, advocacy networks, epistemic communities and arbiters of moral authority (Barnett & Finnemore, 1999; Finnemore & Sikkink, 1998; Risse-Kappen et al., 1999).

Socialization from "Above"

The first mechanism focuses on channels of socialization "from above" namely through direct international exchanges of political elites with norm-promoters at the international level. Borrowing from insights in institutionalist sociology, some constructivists argue that individuals and groups experience pressure to assimilate to the surrounding culture through international institutions such as regional organizations, the rulings of international tribunals and coordinated international advocacy campaigns. This mechanism may involve the persuasion of elites through moral argumentation and social learning (Checkel, 2001; Risse, 2000) or they may involve more subtle processes of acculturation that consist of micro-mechanisms of peer-pressure, orthodoxy, mimicry and status maximization (Goodman & Jinks, 2004; Johnston, 2001). According to this explanation elites do not necessarily have to become convinced about the appropriateness of a certain norm, but at least have to be convinced of the necessity to conform to or emulate scripts of legitimacy (Krasner, 1999; J. W. Meyer & Rowan, 1977; O. W. Meyer, Boli, Thomas, & Ramirez, 1997). This path to compliance is sometimes marked by a passive acceptance of the norm and a "decoupling" of rhetoric (aimed at outside actors)

and action (aimed at domestic actors) (J. W. Meyer & Rowan, 1977; Schmitz & Sikkink, 2002). In other words, the dominant mode of action is characterized by an outward "logic of appropriateness" and an inward self-interested "logic of consequence." Although constructivists disagree as to the long-term significance of this decoupling between superficial rhetoric of norm adoption and state behavior, I suspect that at least initially, top-down mechanisms of socialization may lead to shallower compliance than would other forms of socialization from below. As explained by Dai (2005), in the absence of established international monitoring mechanisms, sustained compliance with a new norm may require domestic social mobilization.

In the case of internal displacement, most of the effort to socialize states at the international level is performed by the Representative to the UN Secretary General ("RSG"). He has tried to influence states through official country visits, the publication of reports and through intense lobbying within the United Nations and UNHCR, the UN agency for refugees that has increasingly taken the lead on issues of displacement.[22] A number of international and regional human rights and development organizations such as the United Nations Development Program (UNDP), the Office of the High Commissioner for Human Rights (OHCHR), the Inter-American Commission for Human Rights (IACHR), and others, have on occasion helped to promote the application of the *Guiding Principles*. They do this by educating governments, lobbying within regional organizations and sometimes engaging in naming and shaming campaigns but their involvement with this issue has been more sporadic than that of the RSG and UNHCR. If this mechanism of socialization from above is at play our study should find that countries

[22] Although UNHCR's initial mandate did not specifically include internal displacement it has, for many years, been assisting and protecting millions of IDPs. Following the 2005 UN reforms and the adoption of the "cluster approach," UNHCR has taken the lead in overseeing the protection and shelter needs of IDPs and the management of their camps (Weiss & Korn, 2006).

are more likely to commit and comply with the GP after being targeted by these entities – perhaps following close exchanges with the RSG during country visits.

Opportunities for international socialization also exist through the operational activities of regional organizations (such as the African Union, the OAS and the OSCE) that have officially endorsed the GP. Socialization may also have resulted from the activities and rulings of regional tribunals such as the Inter-American Commission for Human Rights and European Court of Human Rights.

Transnational Activism

A second version of constructivism argues that state socialization occurs from below through the social mobilization of principled activists and domestic interest groups which exercise pressure on the governing elites (Risse-Kappen et al., 1999). Socialization may be a bottom-up process exclusively which results from the mobilization of domestic principled and interest groups, as much of the social movement literature suggests (Smith, Chatfield, & Pagnuco, 1997) or may involve a more complex boomerang strategy in which pressure is exerted on the state simultaneously at the international and domestic levels through the coordinated actions of transnational activist networks (TANs) composed of NGOs and other potentially like-minded actors (Keck & Sikkink, 1998; Risse-Kappen et al., 1999).

If this bottom-up mechanism of state socialization is taking place we should expect to see a change in state behavior in states where civil society is mobilized on behalf of the displaced. This mobilization may take the form of intense lobbying of policy makers, legal challenges in domestic courts, the engagement of influential epistemic communities, and domestic shaming campaigns. The emergence of activist networks, however, is a necessary but not sufficient condition for change. In order to be

effective activist networks must also be afforded the space, in terms of civil and political liberties, and domestic institutions such as independent courts through which to exert pressure on their government. Stable democracies and countries with relatively high levels of civil and political liberties, and countries with independent courts and a strong rule of law tradition should offer activists the best prospects to alter state behavior (Simmons, 2009).

According to a constructivist view point, the successful diffusion of internal displacement norms should also depend on the normative resonance or "cultural match" of the GP with existing domestic norms, as reflected in discourse, the legal system (constitutions, judicial codes, laws), and bureaucratic agencies (organizational ethos and administrative procedures) (Checkel, 1999). Because the GP are based on existing international human rights and humanitarian norms, we should expect countries that have signed and ratified most international human rights treaties and conventions as well as the signatories of the 1951 Convention on Refugees to be most likely to commit to and implement the GP.

When countries are driven to comply because of normative concerns (whether through pressure exerted form below, from above or both) there should be some semantic evidence that countries are justifying their behavior towards IDPs because of ideational considerations. Shifts in policy should be marked by evidence of shaming, argumentation, persuasion and dialogue that make appeals to normative commitments, collective identity, and morality.

The diffusion of IDP norms is likely to involve many of the normative and instrumental mechanisms of norm diffusion described above. In some cases they may operate simultaneously at different levels or at different stages of the norm cycle. Some of these processes are more likely to be dominant in particular countries. As suggested

by Checkel (1999), mechanisms of norm diffusion vary as a function of domestic structure. While "bottom-up" mechanisms marked by domestic social mobilization in support of international norms should prevail among liberal and corporatist states; "top-down" mechanisms based on social learning should be most effective in authoritarian states. Hegemonic powers, like the US and its western allies, may also play a more important role in countries under occupation.

For the most part, because of the GP's origin as soft law developed by activists with little participation from states, their diffusion should be largely dependent on the transnational socialization efforts and work of transnational human rights activist networks ("TANs"), as suggested by a number of constructivists theorists (Finnemore & Sikkink, 1998; Keck & Sikkink, 1998; Risse-Kappen et al., 1999). Their model, in fact, explains quite nicely how the IDP norms became institutionalized at the international level in the first place. These networks employ a mixture of different normative and instrumental pressure mechanisms at different stages of a norm's life cycle. Whereas in the initial stages of the socialization process instrumental adaptation tends to prevail, later on, argumentation, persuasion and dialogue become more significant while institutionalization and habituation mark the final steps in the process (Risse-Kappen et al., 1999).

According to this model, the mechanism by which transnational socialization takes place is rather simple. Motivated by altruism, norm entrepreneurs work to persuade states to adopt a new norm. Once the new norm has been adopted by a critical mass of states, a norm cascades internationally and those who embrace the norm pressure others to accept it. This results in an internalization of the norm across an international dimension (Finnemore & Sikkink, 1998). This process of transnational socialization includes strategic bargaining, moral consciousness-raising through argumentative discourse and

institutionalization and habitualization (Risse-Kappen et al., 1999). Under this scenario, countries are motivated by logic of appropriateness (March & Olsen 1998) or a desire to conform to share ideas of norms and behavior rather than a rational calculation to maximize material gains.

Norm entrepreneurs can at times be states, usually members of the community of liberal democracies (Risse-Kappen 1996) but usually consist of transnational advocacy networks ("TANs") that pressure states that violate human rights to change their behavior (Keck & Sikkink 1998). Keck & Sikkink (1998) define TANs as "networks of activists distinguished by the centrality of principled ideas or values in motivating their formation." They are communicative structures that link actors working internationally on a particular issue, who are bound together by shared values, a common discourse, and dense exchanges of information and services.[23] What is novel about TANs is their ability to utilize non-traditional international actors to use information strategically to help create new issues and categories, and to persuade, pressure, and obtain leverage over much more powerful organizations and governments (Keck & Sikkink, 1998). They frame issues in a way that makes them more understandable to their targeted audiences, instilling a sense of urgency and encouraging action. TANs serve as a source of information and testimony. They can also promote norm implementation by pressuring target actors to adopt new policies, and by monitoring compliance with regional and international standards.

Major actors in TANs may include: international and domestic NGOs (including research and advocacy organizations); local social movements; foundations; the media; churches, trade unions and intellectuals; parts of regional and international organizations;

[23] Keck and Sikkink define networks as forms of organizations characterized by voluntary, horizontal, and reciprocal patterns of communication and exchange. They are much more versatile than hierarchies and are particularly effective around issues where information plays a critical role (1998).

and parts of the executive and/or parliamentary branches of government. Among these, international and domestic NGOs play a central role, usually initiating actions, pressuring more powerful actors to take positions, and often providing support and training to other NGOs.

TANs usually emerge when channels between domestic groups and their governments are obstructed or severed or when such channels become ineffective in resolving conflict. This sets in motion what Keck & Sikkink refer to as a "boomerang" pattern of influence, in which domestic activists take their claims to the international level. Taking advantage of the emerging opportunities for global activism that emerged in the last decades of the 20th Century and a broader "internationalist" cultural shift that grew of the activism of the 1960s, TANs seek to exert influence in many of the same ways that other political groups or social movements do. Among others, their tactics include: informational politics (the ability to move political usable information quickly and credibly where it will have the most impact); symbolic politics; leverage politics (or lobbying); and accountability politics or efforts to force more powerful actors to act on vague policies or principles they formally endorsed.

According to Risse & Sikkink (1999) advocacy networks serve three important purposes, which constitute necessary conditions for sustainable domestic human rights change. First, they put norm-violating states on the international agenda in terms of moral consciousness-raising. Secondly, they empower domestic opposition groups and legitimate their claims against norm-violating governments, and in part, help protect the physical integrity of such groups from government repression, which can be critical in allowing for social mobilization in target countries. Finally, they also challenge norm-violating governments by creating a transnational structure to pressure such regimes simultaneously "from above" and "from below" (Brysk, 1993).

Regional Isomorphism

Regional isomorphism refers to the tendency among states within a region to converge on certain policies (Gellers, 2012). Much of the literature on norm commitment and compliance has noted the importance that regional factors have on norm diffusion. Where a country is located and what its neighbors are doing seems to matters in determining patterns of appropriate international behavior (Simmons, 2009; Simmons & Elkins, 2004). The literature, however, fails to explain why we repeatedly observe clear regional patterns of international norm diffusion (Heather Smith 2004). In her study of international commitment to international human rights treaties, Simmons alludes to the existence of a sort of international, and particularly regional, peer pressure. In the absence of a strong value commitment, she finds that the strongest motive for ratification of human rights treaties may be: "*the preference that nearly all governments have to avoid social and political pressure of remaining aloof from a multilateral agreement to which most of their peers have already committed themselves"* (Simmons, 2009). She finds that as more countries, especially regional peers, ratify human rights accords, it becomes more difficult to justify non-adherence and to deflect criticism for remaining nonparty. In her view, the timing and incidence of regional clustering suggest a strategic logic rather than evidence of normative socialization.

Constructivists, in contrast, view regional clustering as proof that normative socialization is taking place at the regional level and that the relevant actors are, in fact, internalizing these norms. It is likely that IDP soft law, like other human rights norms, has been internalized by countries in certain regions in great part because of the key role played by regional organizations. Constructivists view international organizations as important teachers of norms (Finnemore, 1993). Regional organizations are, after all, social environments, which both constrain and transform their members. These

organizations have the ability to socialize agents (both individual policy-makers and states) through multiple micro-mechanisms that may include strategic calculation, role-playing, and normative suasion (Checkel, 2005). Regional homogeneity—the existence of shared language, institutions, and shared understandings – also provide a setting that facilitates the work of TANs (Keck & Sikkink, 1999).

Domestic Factors

The prospect that the international mechanisms of norm diffusion, described above, are successful in promoting commitment and compliance with the Guiding Principles is likely to depend on a number of domestic structural factors pertaining to countries' particular displacement crises. Specifically, I believe that it is reasonable to expect that: (1) the cause of the displacement crisis; (2) the perceived enormity of the displacement crisis; (3) the capacity of the state to implement the guidelines and; (4) the status of the domestic conflict (whether a the conflict is active or peace has been achieved) will greatly affect countries' propensity to implement the GP and possibly even to commit to complying with them in the first place.

While countries' commitment to the IDP regime may be initially spurred by instrumental and normative pressure from abroad, implementation may be primarily dependent on domestic factors. Implementation of international law refers to the process of putting international norms or obligations into practice by incorporating them into domestic law through legislation, judicial decision, executive degree, or other processes and then enforcing these laws (Shelton, 2000). Legal theory conceptually treats implementation as neither a necessary nor sufficient condition for compliance (Raustiala

& Slaughter, 2002).[24] In practice, however, implementation is usually a critical step towards compliance. Shelton (2009) has argued that in the case of soft law these two concepts are inseparable: "*there is no compliance without implementation and there is no implementation without compliance*." For Koh (1997, 1998), the internalization of international norms into the domestic legal system, in fact, represents the highest form of compliance and the culmination of the legal process.

Although implementation assumes the institutionalization or adoption of domestic laws and policies in accordance with the Guiding Principles, it also involves the enforcement of these. In some counties with internal displacement, there exist some well-acknowledged gaps between the institutionalization of IDP laws and the enforcement of these. As pointed out by Deng (2007), even in countries that have passed domestic law based on the Guiding Principles, compliance has not always been assured. It is estimated that 30 percent of the returns carried out by the government of Angola in 2002 actually complied with Angola's own law.[25]

For the purpose of this study, at the very minimum, implementation of the GP should involve the codification of laws and policies on displacement, the allocation of the necessary budgetary and institutional resources, and the monitoring and enforcement of these laws, including the continuous collection of data on the displacement situation.

I believe that in the absence of strong international monitoring and enforcement mechanisms, implementation of IDP regime depends on the ability of domestic forces and institutions to hold governments accountable to their promises. These factors can

[24] Compliance can occur for reasons completely exogenous to implementation. Raustalia and Slaughter (2002)illustrate this by pointing out that the economic collapse of the USSR led to perfect but coincidental compliance with many environmental agreements.

[25] See Global IDP Project, "Angola: While Large Numbers of IDPs Are Returning Home, Authorities Have Largely Ignored Minimum Standards" (December 2002), quoted in (Deng, 2007)

affect both countries' capacity and political will to institutionalize, implement and monitor compliance with the GP. I will now examine each of these factors individually.

(1) Cause of Displacement Crisis

IDPs are displaced for a variety of reasons. In many cases the regime in power is principally responsible for displacing its own people collectively or individually by targeting civilians. In other cases people are displaced by third party armed groups, foreign or domestic, or by generalized violence. It can logically be expected that regimes that are primarily responsible for causing displacement would also be more reticent to comply with international norms to protect and assist IDPs.[26]

Orchard (2010a) has coined the term *regime induced displacement* ("RID") to describe situations "*when the government or government-sponsored actors deliberately use coercive tactics to directly or indirectly cause large numbers of their own citizens to leave their homes*." According to Orchard (2010a) four distinct elements differentiate RID from other causes of displacement. A country's government must be either directly or indirectly involved in displacing people, for example, through government-sponsored third parties such as the *Janjaweed* militias in Darfur. Displacement must constitute a deliberate and coordinated action,[27] and the Action must be coercive. This can range from the indiscriminate use of force and human rights violations in ethnic cleansing campaigns to more indirect policies such as the deliberate starvation or restriction of access to humanitarian assistance. Finally, the size of the displacement must be

[26] Interview with: Roberta Cohen, (Co-founder and former Director of the Brookings Project on Internal Displacement), March 28, 2013, Washington, DC and telephone interview with Joseph Zapater (UNHCR, IDP Team member, Office of International Protection), May 24, 2012.

[27] According to Orchard, the widespread abuses by disaffected soldiers, similar to what occurred in Sierra Leone between 1991 to 1994 would not constitute RID.

significant.[28] Instances of RID particularly challenge the ability of international and non-governmental organizations to provide forced migrants and specially IDPs with basic levels of protection. They also can conceivably represent a major obstacle to the diffusion of the GP.

This concept RIP is arguably problematic because, in most cases, governments to a larger or lesser degree usually bear some responsibility for their displacement crises. There is, of course, wide variation on the level to which states are responsible for causing displacement. This ranges from governments' refusal to act in a timely manner or to protect a remote minority from attack by rebel groups (as was the case of Central African Republic in the early 2000s) to more coordinated efforts of ethnic cleansing (Serbia's campaign in Kosovo in 1998-1999). RID is clearly not a dichotomous variable. Measuring RID is also particularly problematic because, in most cases, the extent of the state's responsibility for producing displacement is the subject of much debate; and in the midst of war there is rarely enough reliable information with which to make a clear determination.

Notwithstanding these issues, regimes that view IDPs as enemies or outsiders, either because of ethnic or ideological reasons, should be less likely than others to comply with obligations to protect and assist IDPs. For international humanitarian advocates, resolving displacement in countries where the government is in the hands of an ethnic group that is combatting another ethnic group is particularly difficult.[29] Countries in which displacement is the result of individualized political persecution by

[28] Orchard places the significance threshold at 100,000 IDPs.

[29] Interview with Roberta Cohen, (Co-founder and former Director of the Brookings Project on Internal Displacement). March 28, 2013. Washington, DC.

the state (i.e. Zimbabwe, Iraq during the 1990s, and Haiti 1991-1993) should also be less likely to acknowledge or, in any other way, call attention to their displacement crises.

Other governments may want to commit to the regime in order to call international attention to a crisis that is not of their making. Countries suffering displacement as a result of inter-state war, in which IDPs have been displaced by foreign agents should be most likely to commit and comply with the GP. In these cases commitment can serve as a signaling mechanism to call international attention to the conflict and elicit international support. It is not surprising that some of the first countries to institute domestic legislation to protect IDPs, such as Georgia, Armenia, and Azerbaijan, were involved in internationalized conflicts.

(2) Perceived Enormity of the Displacement Crisis

Internal displacement crises around the world vary significantly in terms of their visibility, size, geographical scope, and intensity. While in some countries displacement is practically invisible because it is relatively small, slow, or confined to remote regions, as was the case of the displacement that resulted form the Zapatista uprising in Chiapas during the 1990s, in other countries displacement is highly visible. In some countries in Sub-Saharan Africa, for example, between one fifth and one half of the population has been episodically displaced.[30] This variation greatly affects the way that a country's political elites and its population perceive the problem and hence the political urgency given to addressing displacement.[31]

[30] During the worst part of Liberia's civil war in early 1990s there were over one million IDPs accounting for approximately one half of that country's population.
[31] Telephone interview with Nuur Mahamud Sheek (IDMC, Country Analyst). April 26, 2012.

Countries in which the perceived enormity of the displacement crisis is greatest should be more likely than others to commit and comply with the IDP regime. Large and rapid displacement amplifies the humanitarian costs of the crisis giving credibility to normative appeals to protect and assist IDPs. Large-scale displacement is also more likely to be treated as a threat to a country's national security and political stability.

(3) State Capacity

Compliance with international norms to a large extent is constrained to a large extent by a states' capacity to effectively draft, implement, monitor, and enforce domestic law.[32] For the purpose of this study, capacity refers broadly to the strength, reach and ability of institutions of governance. It includes many factors such as the state's presence and control over the national territory, physical access to IDPs, and access to the necessary financial, technical, and bureaucratic resources to institute what are essentially very costly and complex obligations. Betts & Orchard (2014) emphasize the need for domestic epistemic communities and designated experts to help translate very generic international norms into implementable policies at the domestic level. In the absence of domestic expertise international experts and consultants may undertake a dominant role (Betts, 2010a; Ferguson, 1990; P. M. Haas, 1992).

Orchard found that Nepal has been unable to implement its IDP policy because of the chronic weakness of the post-conflict government (Orchard, 2014). As Chayes and Chayes have pointed out (1993, 1995), lack of capability may prevent countries from complying with international law even when countries intend to comply. In examining

[32] Interviews with internal displacement experts at UNHCR and IDMC.

patterns of compliance with international environmental commitments VanDeveer and Dabelko (2001) have said of implementation "it's about capacity, stupid."

Capacity is a particularly critical factor with regards to displacement because countries with IDPs tend to be undergoing severe institutional crises. During wars and internal conflicts state resources available for humanitarian purposes are limited. Many of the thirty guidelines of the GP require direct access to IDPs and impose potentially costly positive obligations on the state. Principle #18, for example, specifies a state's obligation to provide IDPs with an adequate standard of living (which includes access to food, potable water, basic shelter, clothing and essential medical services and sanitation). Similarly, principle #23 specifies states' obligation to provide IDP children with free and compulsory education at the primary level.

This study takes into consideration that states may be unwilling to commit to, and unable to implement, ambitious international prescriptions they lack the material capacity to meet regardless of whether they believe these prescriptions to be legitimate. Other things being equal, relatively underdeveloped and fragile states may be less likely than others to comply with the IDP regime.

(4) State of Hostilities

One final important structural factor that must be accounted for is the state of hostilities in countries with IDPs. All things being equal, countries at peace should be more likely than countries at war to comply with the IDP regime. There are three main reasons for this. First, countries that have achieved peace should be less likely to view IDPs as potential enemies (particularly in cases where conflict is drawn along ethnic lines like Sri Lanka). Secondly, it is generally easier for countries at peace to comply with the GP's many provisions. It is easier to access and monitor IDPs once violence has ceased;

the IDPs themselves become significantly less vulnerable; their numbers tend to diminish as many of them return voluntarily to their homes; and, once hostilities have ended, humanitarian organizations are also more likely to assist states in caring for IDPs.[33] When the state is not fighting it is also more willing to divert resources (institutional and budgetary) from war to humanitarian efforts. Thirdly, and perhaps most importantly, when hostilities end, assisting displaced populations to return and reintegrate may become an integral part of a state strategy to achieve durable peace and stability. By assisting IDPs and preventing further displacement states can simultaneously address the root causes of a conflict (Fagen, 2009; Khoser, 2007; Klopp, Githinji, & Karuoya, 2010). For these reasons it is not uncommon for peace treaties and negotiated settlements to include provisions concerning the fate of IDPs.[34]

METHODS

Large-N Statistical Analysis

In order to study the global patterns of compliance with the GP this study utilizes a mixed methods approach. In the first phase, in Chapter Two, I utilize a large-n statistical analysis of an original panel dataset, which includes all documented war-induced internal displacement crises from 1990 to 2010. This dataset was constructed using publically available data collected by the Internal Displacement Monitoring Center ("IDMC") and the Brookings Project on Internal Displacement.

[33] Telephone interview with Nadine Walicki (IDMC, Country Analyst). April 19, 2012.

[34] Some examples include the peace process in Guatemala in the late 1980s, the Dayton Peace Accord in 1995, the Georgian peace process in the mid-1990s and Burundi's Arusha Peace agreement in 2000. See (Brookings-Bern PID, 2007).

The study proceeds to explore the dataset, through the use of descriptive statistics and event history analysis, to tease out the merits of various IR theories of compliance with international soft law in explaining states' commitment to the IDP regime. The point of this exercise is not so much to formally test a number of hypotheses using regression analysis but rather to discern the relevance and validity of competing theories of soft law compliance by looking broadly at patterns of commitment with the GP during a twenty year period, with the expectation that this will allow us to refine a number of working hypotheses that can be further explored through qualitative case studies.

Having gained a better understanding of why countries commit to the IDP regime by enacting domestic legislation on internal displacement, I then conduct an in-depth qualitative case study on Colombia. The purpose of this case study is to: (1) trace the casual mechanisms that lead a country with a major displacement crisis to commit to complying with the regime; (2) determine to what extent normative and instrumental considerations explained state behavior, and; (3) get at the more important question of implementation and enforcement of the GP, which is difficult to analyze quantitatively. Although a single case study cannot be expected to solve the puzzle in a definitive way it can demonstrate how a more comprehensive study of compliance with the GP can be done given greater time and resources.

Extensive Primary Data Collection

In order to trace the processes that led Colombia's to commit and deepen its compliance with the international IDP regime during the past twenty years I conducted extensive primary data collection in Colombia and Washington DC. The qualitative research involved, over 40 semi-structured key informant interviews conducted in person and over the telephone in Washington, Geneva and Bogotá. The subjects interviewed for

this study included internal displacement experts at UNHCR, IDMC and the Brookings Project on Internal Displacement, Colombian and US-based human rights activists, IDP leaders, Catholic Church officials, academics, journalists and humanitarian workers. I also interviewed some of the principal architects and enforcers of Colombia's IDP policy and legislation including a number of key legislators and Colombian government officials who served in the past four administrations, like former Colombian president Ernesto Samper Pizano.

I also interviewed a number of magistrates of Colombia's Constitutional Court credited with challenging the state's policy on displacement as well as several key lawyers at the Inter-American Commission on Human Rights (IACHR). I also able to interview a number of key American human rights and USAID representatives at the US mission in Bogotá and at the US State Department headquarters in Washington DC, as well as representatives of the UNHCR and OHCHR missions in Bogotá. This case study also involved extensive archival research at the Brookings Institution in Washington DC, and the Bogotá-based Center for Research and Popular Education/Peace Program (CINEP/PPP) and Colombian Commission of Jurists (CCJ).

Finally, with the help of the Colombian Catholic Church's social outreach agency, I was able to conduct an on-sight visit of one of one of Colombia's largest IDP settlements in the municipality of Soacha, on the southern edge of Bogotá where I visited an IDP reception center, and interviewed several displaced families, IDP leaders and humanitarian workers.

Case Selection Justification

Colombia represents a critical case for the study of commitment with the IDP regime because it represents deviant case of compliance, it is intrinsically important and

it is rich in data. Colombia is a deviant because the country has achieved a level of commitment and compliance with the IDP regime developing a complex and ambitious framework for the protection and assistance of IDPs rarely seen in other cases. For this reason, norm entrepreneurs have repeatedly hailed Colombia's national response to displacement as an example to be emulated by other countries with IDPs (Ferris et al., 2011).

Colombia is an intrinsically important case because the country has been home to one of the largest and longest lasting displacement crises in the world. Until it was recently surpassed by Syria (with 6.5 million)[35], Colombia was for many years home to the largest IDP population in the world. As of 2014, it was estimated that between 4.9 and 5.7 million Colombians had been displaced by violence and human rights abuses since 1985. This number surpassed by a wide margin the magnitude of the next displacement crises in the world: The Democratic Republic of Congo (2.7 million), Sudan (2.2), Iraq (2.1) and Somalia (1.1 million) (IDMC, 2014a).[36] Colombia's internally displaced population corresponds to over 10% of the country's population and over 30% of the rural population, making Colombia's, according to former UN Emergency Relief Coordinator Jan Egeland, the "worst humanitarian crisis in the Western hemisphere."[37]

Colombia also offers a *data rich case* (Van Evera, 1997). Because Colombia's displacement crisis has been closely monitor by a myriad of international and domestic actors during the past two decades there are abundant archival data and many key

[35] See: http://www.internal-displacement.org/global-figures (last visited October 22, 2014)
[36] The figure for Sudan does not include S. Sudan.
[37] See: "Colombia has the biggest humanitarian crisis in the Western Hemisphere, UN says." *UN News Center*. (May 10, 2004)
(http://www.un.org/apps/news/story.asp?NewsID=10691&Cr=colombia&Cr1#.VE6yTd5Cjwc)

participants are available for interviews. As pointed out by Van Evera (1997), other things being equal, cases rich in data are preferable to infer and test theories using process tracing, which involves intensive analysis of the development of a sequence of events over time (George & Bennett, 2005). Cases rich in data are "*hypothesis-generating*" case studies (Levy, 2008) whose purpose, after all, is to develop more general theoretical propositions about commitment and compliance with soft law, which can then be tested through other methods, including large-N methods. In this sense we are not so much looking at a case that does not fit nicely into existing theory (e.g. deviant or least likely cases) but rather at an important and perhaps "archetypal" case of compliance that can help specify the casual mechanisms responsible for leading countries to commit and comply with a soft law regime.

There are arguably a number of factors that set Colombia apart from most displacement crises around the world – the majority of which take place in poorer, weaker and less stable countries in Sub-Saharan Africa. A case study on Colombia, however, provides an excellent opportunity for theory building and testing using available empirical data. Although I would have liked to include additional cases from other regions of the world in this study, the time and resource constraints inherent in a doctoral dissertation do not make this possible. The concluding chapter of this book suggests a number of cases that should be included in a future research agenda.

This study utilizes a combination of quantitative and qualitative methods because this allows for a more comprehensive look at the issue of compliance with the IDP regime than any method alone. A statistical large-n study of patterns of commitment provides an initial understanding of the "big picture" on the global state of commitment with the IDP regime. Quantitative analysis also provides a good method to examine the merits of competing theories of international norm diffusion on the entire universe of

cases. The qualitative cases study, in turn, can uncover through a more thorough examination, how the various causal factors of compliance, intimated by the quantitative study, interact in affecting state behavior.

The question of commitment and compliance with the IDP regime remains, admittedly, very understudied and under-theorized. This study offers an explanation of why and how countries may be taking these norms seriously.

CONCLUSIONS

This study finds that commitment with the GP, both globally and in the case of Colombia, is driven by a variety of factors. While in some cases commitment involves the imposition of IDP norms by hegemonic powers after military intervention or an internationally brokered peace agreement (i.e. Iraq), in most cases the process has been driven by the work of norm entrepreneurs exercising simultaneous pressure from within and from aboard in a strategy suggestive of the "boomerang" pattern of international activism (Keck & Sikkink, 1998) and the spiral dynamics of norm diffusion (Risse-Kappen et al., 1999). Given the origins of a regime with limited state participation, it is not surprising that transnational activist networks, linking domestic activists and international norm entrepreneurs, have played a key role in promoting domestic legislation on internal displacement.

The large-n study also shows strong evidence of regional clustering. Although IDP norms are arguably international and not regional, they have diffused along regional lines at different rates and at different times. The case study on Colombia reveals that regional factors were key drivers for Colombia's commitment and deepening compliance with the IDP regime. More specifically, this study found that the region's previous

experience with wars and displacement in Central America, as well as the pre-existence of regional norms on forced migration and mature regional human rights institutions and activist networks went a long way in explaining why Colombia committed and increasingly complied with the GP. Overall, the empirical evidence suggests that mechanisms of these norms' diffusion can only be fully understood when they are examined within the broader regional context.

The case of Colombia also suggests that norm implementation may largely depend on domestic rather than international politics. In fact, domestic actors, or norm consumers, play a significantly less passive role than intimated by international relations theory. As pointed out by Acharya (2004), much of the existing literature on norm diffusion has downplayed the agency role of local actors. He calls attention to the phenomenon of localization whereby norm-takers build congruence between transnational norms and local beliefs and practices. This study suggests that activists at times go beyond reshaping international norms and essentially pick and choose some aspects of international normative frameworks, which they find useful in promoting their political agendas and sometimes reframing the issue of displacement entirely.

OUTLINE OF THE BOOK

Chapter Two presents the large-n statistical study of patterns of commitment with the Guiding Principles. The following three chapters (Chapters Three, Four and Five) trace the story of Colombia's deepening level of compliance with the IDP regime during the last two decades, from denial of the problem, to commitment, implementation and eventually deep compliance with the regime. Chapter Three traces the events that led Colombia to institute Law 387 in 1997 – one of the first and most comprehensive laws in

the world for the protection and assistance and of IDPs. Chapter Four tells the story of Colombia's Constitutional Curt's intervention and a seminal ruling (T-025) that in 2004 forced a resistant Uribe administration to finally implement Colombia's IDP laws. Chapter Five trace the events that led to the institution in 2011 of Colombia's gown breaking Victims' and Land Restitution Law (Law 1448) by the Santos administration, which finally made the resolution of the issue of land abandoned and stolen from IDPs a priority and turned Colombia into a "poster child" of compliance with the IDP regime. Chapter Six concludes this study by discussing the importance of regional factors in explaining countries' commitment to and compliance with the IDP regime future research agenda.

Chapter 2: Large-n Study of Global Patterns of Commitment with the Guiding Principles

INTRODUCTION

Commitment to the regime for the protection of internally displaced persons ("IDPs") is an understudied and under theorized field. A number of studies have been written about the IDP regime's unlikely emergence and its legal foundations (Bagshaw, 2005; Cohen & Deng, 1998b; Phuong, 2004; Weiss & Korn, 2006). Much has also been written about the many challenges presented by the problem of internal displacement (particularly by Brookings and IDMC).[38] For the most part the literature has been geared towards a legal and humanitarian audience and has been focused on a limited number of cases. With the exception of work done by Orchard (2010a, 2010b, 2014) few scholars have studied the IDP regime from an international relations perspective. Moreover, to date, none has taken a rigorous and systematic look at patterns of commitment and compliance with the regime.[39] This is not surprising because commitment and compliance with soft law instruments such as the *UN Guiding Principles on Internal Displacement ("GP")* is hard to measure and operationalize, and because data on compliance has been scattered and scarce up until recently.

This study attempts to address this empirical gap by compiling an original comprehensive cross-sectional time series dataset of all documented IDP crises for the

[38] See for example: (Cohen & Deng, 1998a; Hampton, 2012; Korn, 1999; Muggah, 2008; Vincent & Sørensen, 2001). A number of special issues of *Forced Migration Review* have also been dedicated to the issue of internal displacement (Nov 2003, Feb 2003, Oct 2005, Dec 2008, and Sep 2009)

[39] The Brookings-LSE Project on Internal Displacement perhaps came closest to presenting a global survey of compliance (Ferris et al., 2011). However this study only examines a subset of 15 countries with internal displacement and is hindered by several limitations inherent in using the 12 broad benchmarks outlined in the *Framework for National Responsibility* as measures of compliance.

past two decades, and taking an initial examination, through statistical analysis, at patterns of commitment with the IDP regime. The study proceeds to explore the dataset through the use of descriptive statistics and event history analysis, in an attempt to tease out the merits of various IR theories of compliance with intentional norms in explaining states' commitment with the IDP regime. More specifically this section explores the following hypotheses using quantitative methods in an attempt to eliminate possible explanations for commitment.

- *Countries are more likely to commit to the Guiding Principles ("GP") when they are subjected to instrumental international pressure from powerful states that have financial and military leverage.*
- *Countries are more likely to commit to the GP when they are subjected to normative pressure from international activists networks, institutions and norm entrepreneurs.*
- *Countries are more likely to commit to the GP because they are pressured to address their internal displacement crisis as a result of domestic social mobilization.*
- *Countries are more likely to commit to the GP when the norm's human rights and humanitarian prescriptions are convergent with domestic norms.*
- *Commitment is largely determined by countries' capacity to implement the GP.*
- *Commitment is largely determined by the nature and size of the displacement crisis. Countries where the state is primarily responsible for displacing its own people are less likely than others to commit to the GP. Likewise, countries with large displacement crises are more likely to commit.*
- *Countries at peace are more likely than countries at war to commit to the GP.*

In order to examine the validity of these general hypotheses listed above on an original dataset this study proceeds to test the explanatory force of several proxy variables, presenting the results and refining the working hypotheses.

There are various reasons why quantitative analysis can provide the most rigorous, objective, and comprehensive mans to take a first look at the question of commitment. Given that the study of patterns of commitment with the IDP regime is still at its nascent stage, a large-n statistical analysis can be a useful first step in an iterative process of theory development and empirical testing. A large-n study permits us to test the merits of a wide number of theories of compliance on the largest possible number of cases to narrow down the number of possible explanations for commitment. Once the possible hypotheses have been refined they can then be tested through qualitative means on a selected sub-set of cases.

Internal displacement affects a very large and varied number of countries. There have been over 60 documented countries with internal displacement over the past two decades. This represents a little over one third of all countries in the planet. Between these counties there is wide variation across many dimensions including: the magnitude, type and cause of displacement, as well as the country's levels of democracy, development and state capacity. Countries with internal displacement include highly developed western democracies, such as Israel and Cyprus as well as poor, fragile, or repressive states such as Somalia, Myanmar, and Sudan. Displacement affects very large countries, such as India, and much smaller countries, such as East Timor. For this reason, I believe that a qualitative examination of a sub-set of cases at this stage in the research program would present a serious threat to external validity and lead to possibly biased results.

Given the large number of theories that we want to consider at this stage in the research program, it is preferable to look at the largest possible number of cases. Initial efforts to survey the state of commitment and compliance were limited to anecdotal evidence because data was not available (Cohen & Deng, 1998b; Ferris et al., 2011;

Korn, 1999; Orchard, 2010b). Thanks to greater international efforts to monitor situations of internal displacement by organizations such as the Internal Displacement Monitoring Center (IDMC) in Geneva, there is presently enough data available to consider the totality of cases of internal displacement in the past 20 years. Quantitative methods allow us to take advantage of this by taking into account all documented cases of internal displacement. A smaller sample could lead to degrees of freedom problems greatly restricting the scope of this study. It is no surprise that large-n analysis has often been utilized in political science as a first step to examine issues of commitment and compliance with international norms.[40] It is quite possible that an analysis that considers the entire population of internal displacement cases may reveal some unexpected findings.

While a statistical study of this type may highlight some revealing correlations it will not be enough to establish causality and may tell us very little about why and when certain factors predict compliance. Many of the proxy indicators available for this type of analysis are sometimes too general to tell a coherent story. If, for example, measures of democracy or state capacity prove to be statistically significant in predicting commitment, we will not be able to say how exactly these complex and multi-dimensional factors affect policy outcomes. A more detailed qualitative examination of the processes of commitment and compliance is then necessary to shed more light on why they matter. A large-n statistical analysis, however, can give us a much better idea of what to look for.

[40] See for example: (E. M. Hafner-Burton & Tsutsui, 2005; Hathaway, 2002; Keith, 1999; Simmons, 2009)

Commitment vs. Implementation

It must be remembered that this section examines exclusively patterns of commitment and not compliance with the IDP regime. These are two different but related concepts. At its most basic level compliance can be defined as: *a state of conformity or identity between actors' behavior and a specific rule* (Raustiala & Slaughter, 2002). Compliance is a highly abstract concept and, as could be expected, it is highly dependent on the nature and specificity of a rule or norm. Some constructivist scholars have even argued that the concept of compliance cannot be objectively determined (Kingsbury, 1998). In the case of the GP, some efforts have been made to define (Brookings-Bern PID, 2005) and to measure compliance (Ferris et al., 2011) using a set of 12 general benchmarks of national responsibility. Unfortunately this framework has proven to be of limited use for measuring compliance because many of the benchmarks are underspecified or difficult to measure given the data available.

Commitment, more simply refers to a state's signaling mechanism that it intends to comply with a given norm. As discussed in the introduction, commitment does not automatically translate into compliance. Nevertheless understanding commitment is an important first step in understanding the broader question of compliance. In the case of "hard law" instruments, such as international human rights treaties or conventions, countries' signal their commitment by formally adopting and ratifying a legal document. In the case of a "soft law" instrument such as the GP measuring commitment is more problematic. Theoretically there are a number of ways a state could signal its commitment. This study, however, maintains that commitment can best be determined by looking at whether or not countries have instituted domestic laws or policies on internal displacement that reflect the GP effectively making these soft norm provisions the law of the land.

This chapter is composed of three sections. The first section describes the dataset I constructed including the data, its sources, and modes of measurement utilized. It then defines the dependent and independent variables I utilize to test the various hypotheses derived from the literature in international relations and forced migration studies. In the second section I introduce the methods utilized to analyze the data and I present statistical results. A third section summarizes the findings of the statistical analysis. I first argue that commitment has had a real positive effect in attenuating the magnitude of displacement crises. I then illustrate how commitment has been growing steadily around the world affecting different types of displacement crises. I then illustrate how IDP norm has been adopted in certain regional clusters. Using event history analysis I argue that commitment with the IDP regime appears to have been driven primarily by the work of UN norm entrepreneurs and has been highly suggestive of regional dynamics of norm diffusion.

DATA

The dataset created for this study is the first global longitudinal cross-sectional dataset for IDP crises. Like other datasets of its kind,[41] it should permit us to take a first systematic and comprehensive look at patterns of commitment and compliance with the IDP regime.

[41] See for example: (E. M. Hafner-Burton, Tsutsui, & Meyer, 2008; Hughes, Krook, & Paxton, Forthcomming; Neumayer, 2005; Simmons, 2009; Simmons & Elkins, 2004).

The universe of cases

The dataset includes all 60 countries with documented cases of internal displacement from 1990 to 2010 as documented by IDMC and the United States Council for Refugees (USRC).[42] USCR was the first entity to collect and report IDP figures beginning in the 1980s when the issue of internal forced displacement became for the first time an issue of international concern. Since 2001 these figures have been collected by IDMC, which was established in 1998 by the Norwegian Refugee Council (NRC), and endorsed by the UN Inter-Agency Standing Committee.

The data excludes all other countries because, during this period, countries without internal displacement were not expected to commit to the regime by drafting legislation to protect IDPs. Unlike most human rights regimes such as those regulating torture or the rights of children, the IDP regime does not have in place any sort of international treaty instrument (treaty or convention) that could be easily signed by any country to signal commitment. This, of course, is changing with the drafting of regional treaties on internal displacement starting with the Kampala Convention that came into effect on December of 2012. Moreover, as illustrated in the previous chapter, international entities charged with promoting the regime, such as UNHCR and the *Representative to the UN Secretary General for Internal Displacement* ("RSG") – the UN official mandated to develop and promote an international normative framework to protect IDPs—focused their attention exclusively on countries affected by displacement. Between 1990 and 2010 there were no reported cases of countries without IDPs committing to the regime.

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[42] See: http://www.internal-displacement.org/8025708F004CE90B/(httpPages)/22FB1D4E2B196DAA802570BB005E787C?OpenDocument. Last visited 12/2012.

The dataset includes only crises that result from armed conflict and gross human rights violations (or the threat of them) and excludes all displacement crises caused by natural or man-made disasters. The period under study begins in 1990 because, even though internal displacement has existed throughout human history, IDP crises were not monitored in any sort of systematic way until 1989 when USCR began to collect and publish IDP estimates. The dataset excludes 8 countries for which there was too little data.[43]

Dependent Variable

This study uses as a dependent variable a binomial variable that indicates whether a country has instituted laws and policies on internal displacement, which are in line with the Guiding Principles on IDPs ("GP"). As previously argued, perhaps the best way a country can signal commitment with this international regime is to institute domestic legislation which recognizes that IDPs have a number of rights afforded to them by international law and that the state is responsible for upholding them.

Domestic legislation, of course it is not the only way to demonstrate commitment to the regime. Statesmen can conceivably commit to the IDP regime rhetorically through public pronouncements or at international forums. States can also openly object to the

[43] For six of these countries there was very little information available, including a good estimate of IDPs (Djibouti in 1993, Mali 1995, Nicaragua 1990-91, Moldova 2002-2003, Turkmenistan and Papua New Guinea, 1996). Lack of information can be primarily attributed to one or a combination of following factors: the country suffered a comparatively marginal displacement crises (less than 20,000 IDPs), for a very small period of time (less than three years), and or the displacement crisis was resolved in the early 1990s (as in the case of Nicaragua) before the international regime to protect IDPs took shape. In all of these countries the displacement crisis was not monitored closely and did not receive the same level of attention as other countries. South Africa (four million reported IDPs in the early 1990s) was excluded because apartheid constitutes a very different sort of displacement, which was treated as a special case by the international community. Due to the disputed status of Kosovo's independence, IDPs from the Kosovar conflict are reported under Serbia.

new norm's validity or signal their refusal to commit. To date, however, not a single country has contested the content of the norms enshrined by the GP although a few did question the fact that the GP were developed outside of the traditional international negotiation and treaty-making mechanisms.[44]

Commitment to these norms, however, is not truly credible until the principles are recognized to be legally binding the same way that a treaty becomes the law of the land once it is ratified. Moreover, the framers of the GP recognize that in order for a country to comply for these norms and for the GP to become translated into concrete action on the ground, they must be internalized into countries' domestic legislation (Kalin, 2005). To this end, the RSG, from an early stage launched an ambitious series of country visits and consultations to encourage among other things the adoption of a domestic legal and political framework to address internal displacement.

It is important to note that, even though domestic legislation on displacement signals commitment to the regime and, in many ways is a necessary step towards compliance, it does not necessarily imply compliance. Countries can conceivably have in place very advanced legal frameworks on internal displacement that they fail to implement. This study, however, shares the constructivist perspective that views commitment and compliance as two ends of a continuum (Risse-Kappen et al., 1999) and recognizes that rhetorical adoption of norms without the sincere commitment to comply is a common feature of the dissemination stage in the life-cycle of a norm (Deng, 2007). As argued earlier, in the case of internal displacement, the chosen dependent variable is a necessary step towards compliance.

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[44] According to Cohen, when the Guiding Principles were presented the governments of China, Egypt and Sudan voiced their opposition to the new norm. This opposition, however may have represented more of a reaction to the appointment of an RSG and his advocacy in favor of the idea that the international community has the right to intervene where states fail to protect their own IDPs rather than to the specific list of IDP protections outlined in the GP (Koser, 2011).

The dependent variable was generated based on Brookings' public *Index of National and Regional Laws and Policies on Internal Displacement*.[45] The Brookings index contains a compilation and summary of national laws, policies, decrees and other documents relating to internal displacement, which were obtained from public records and/or were provided with in-country governmental and non-governmental representatives. Although Brookings claims that their list is "not exhaustive," their index represents the most comprehensive compilation of laws and policies available in the area of internal displacement and is often used in IDP research.[46]

Out of 60 countries that have undergone internal displacement from 1990 to 2010, 21 countries instituted some sort of law or policy to address internal displacement. Table 1 provides a list of all the relevant laws and policies which signified several countries' initial commitment to the regime.

[45] See http://www.brookings.edu/about/projects/idp/resources/laws-old. Last visited on 12/12.

[46] See in particular: (Ferris et al., 2011; Orchard, 2010b, 2014) as well as IDMC's yearly reports.

Table 1: List of Laws and Policies on Internal Displacement

State	Year	Law-Policy
Russia	**1993**	*Federal Law on Forced Migrants (1993, amended 1995 and 2003)*
Guatemala	**1994**	*Agreement on Resettlement of the Population Groups Uprooted by the Armed Groups*
Tajikistan	**1994**	*The Law of the Republic of Tajikistan on Forced Migrants*
Bosnia Herzegovina	**1995**	*General Framework Agreement for Bosnia and Herzegovina, Annex VII*
Georgia	**1996**	*Law of Georgia on Internally Displaced Persons*
Colombia	**1997**	*Law 387 on internal displacement*
Armenia	**1998**	*Law on Population Protection in Emergency Situations*
Azerbaijan	**1999**	*Presidential Decree 'On status of refugees and forcibly displaced (persons displaced within the country) persons'*
Burundi	**2000**	*Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV*
Angola	**2001**	*Council of Ministers Decree No. 1/01-Norms on the Resettlement of Internally Displaced Populations*
Sierra Leone	**2001**	*Resettlement Strategy*
Liberia	**2002**	*Declaration of the Rights and Protection of Liberian Internally Displaced Persons*
Serbia	**2002**	*National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons*
Sri Lanka	**2002**	*National Framework for Relief, Rehabilitation and Reconciliation*
India	**2003**	*National Policy on Resettlement and Rehabilitation for Project Affected Families*
Nepal	**2004**	*Relief Program for Internally Displaced People Due to Conflict for FY 2004/05*
Peru	**2004**	*Law No. 28223 Concerning Internal Displacements*
Uganda	**2004**	*The National Policy for Internally Displaced Persons*
Turkey	**2005**	*Integrated Strategy Document*
Iraq	**2008**	*National Policy on Displacement*
Sudan	**2009**	*National Policy on Internal Displacement*

Independent Variables

For the purpose of this study I have generated a number of variables relating to possible pressure mechanisms and intervening structural factors which are listed in Table 2 and are discussed in more detail in the section below.

Table 2: Possible Causal Mechanisms of Norm Compliance

Casual Path	Mechanism & Dominant Mode of Action	Testable Hypotheses	Indicators
International Instrumental Pressure	Coercion and inducement through incentives and penalties; Issue linkage. Process is marked by domination and adaptation. States follow self-interested logic of consequence.	Countries more likely to commit include: 1. Highly dependent and weak states when hegemonic pressure is observed. 2. Countries with foreign military presence (including UN PKO)	Dependence on Foreign Development Aid (measured as proportion of GDP) Presence of peace-keeping forces
International Normative Pressure	Top-down acculturation of governing elites through mechanisms that include pressure to assimilate to the surrounding culture within international institutions that endorse norm or flowing close contact and exchanges with norm entrepreneurs.	Countries more likely to commit include: 1. Countries that are pressured to commit by the RSG. 2. Countries in which UNHCR protects IDPs 3. Countries in regions where other states have already committed to the regime.	Country visited by RSG (y/n) UNHC present (y/n) Region / Measure of Regional Density (proportion of countries with IDPs in the region that have committed to the IDP regime)
Cultural Match	States that commit with the GP are states in which the norm's humanitarian and human rights prescriptions are convergent with domestic norms as reflected in domestic discourse, legal systems and bureaucratic agencies.	States commit with the GP when: 1. The GP's humanitarian and human rights prescriptions are convergent with domestic norms as reflected by prior international commitments. 2. States have a proven record of respect for human rights. 3. States are democratic.	Measure of embeddedness into the international HR regime. ➔ Physical Integrity Index (CIRI) Freedom House Measure of democracy
Social Mobilization	Bottom-up socialization of governing elites as a result of social mobilization and the coordinated actions of transnational activist networks. States follow logics of appropriateness.	States with dense human rights networks are more likely than others to commit to the IDP regime. States where human rights INGOs are most engaged are also most likely to commit to the IDP regime.	INGO density ➔ Count of human rights international non-governmental organizations ("INGOs") with presence a in the country. INGO shaming events ➔ Count of the number of reported human rights INGO shaming events.

Table 3: Possible Intervening Structural Factors

Structural Factor	Testable Hypotheses	Indicators
State Capacity	States with a higher capacity to implement the prescriptions of the GPID will be more likely to comply.	State Fragility Index GDP per capita
Magnitude of Displacement	States in which IDPs are most visible (scope & intensity of crisis, patterns of displacement) will be more likely to comply.	Magnitude of displacement crises measured by: (1) number of IDPs (log); and (2) proportion of population that is displaced.
Peace/War	States are more likely to comply when they have achieved a cessation of hostilities and/or have negotiated a peace agreement.	State of hostilities (Peace/War)
Underlying Cause of Displacement	Cases where the displacement is the result of international conflicts are more likely than others to commit to the regime.	Cause of displacement (international war; internal war; individualized political persecution)
Regime Induced Displacement (RID)	Countries where the state is primarily responsible for displacing its own people are less likely to commit to the regime.	RID (yes/no)
Protraction	Countries with protracted displacement are less likely than countries with episodic displacement to commit to the regime.	Protraction (country has had more than 25,000 IDPs for over 5 years) (y/n)

Variables Relating to Normative International Pressure

Among other things, this study is interested in testing the hypothesis that countries commit to the IDP regime as a result of normative international pressure "from above." Perhaps the three most important sources of this type of international pressure are: the Office of the Representative to the UN Secretary General for Internally Displaced Persons ("RSG")[47]; the Office of the UN High Commissioner for Refugees (UNHCR); and the various regional human rights bodies such as the Inter-American Human Rights Commission and European Commission for Human Rights.

[47] As of September 2010 this person is referred to as: *UN Special Rapporteur on the Human Rights of IDPs*.

RSG Visits

As explained in an earlier chapter, the originator and perhaps the most important champion of the GP has been the RSG. Since it obtained its mandate in 1992, the RSG's principal mission has been to develop an international framework to respond to the problem of internal displacement and to promote international norms to protect IDPs. It has done this with very few resources and the logistical assistance of the Brookings Project on Internal Displacement. To this end, the RSG has conducted an extensive country visits campaign and has regularly issues reports calling international attention to IDP situations.

Although it is difficult to measure the level of attention given or pressure exercised by the RSG to any particular IDP crisis it is possible to gauge the level of engagement the RSG has had with a country by looking at the number of times he visited that a particular country. In order to do this the dataset incudes a variable that count the number of times the RSG visited a particular country.[48] This variable can reasonably serve as a proxy indicator for RSG pressure because, given the limited resources at his disposal, the RSG has only been able to conduct an average of less than 3 country visits a year. The RSG usually decides which countries to visit very carefully while taking into consideration where his attention is most needed and where he is most likely to have a considerable impact. To date, the RSG has conducted over 51 country visits. Many of these were follow-up visits to countries he visited earlier. This variable was coded using data from OHCHR.[49]

[48] Ferris et al (2011) suggest that engagement by the RSG would be a great variable to test.
[49] See: http://www.ohchr.org/EN/Issues/IDPersons/Pages/Visits.aspx, last visited 9/12.

UNHCR Protection

UNHCR, known as the UN agency for refugees is today the principal international entity in change of protecting IDPs. Although UNHCR's original mandate did not specifically cover IDPs, but because of the agency´s expertise on displacement, it has for many years been protecting and assisting millions of them. Following important UN reforms in 2005 and the establishment of the "cluster approach", UNHCR has had the leading role in overseeing the protection and shelter needs of IDPs as well as coordination and management of camps (Weiss & Korn, 2006). Other UN agencies, such as the UN Development Programme (UNDP) and the UN Human Rights Council (UNHRC) have certainly contributed to some extent or another in norm promotion, but their involvement with the issue of displacement in host countries has been more *ad hoc*.

To test the effect of UNHCR's presence on countries' propensity to commit to the regime the dataset includes a binary variable that indicates whether UNHCR actively protected IDPs in a particular country. This data was reported by UNHCR for the period 1993-2011.[50]

Regional Pressure

Normative international pressure to commit with international norms can also take place at the regional level. Nye defined international region "as a limited number of states linked by a geographical relationship and by a degree of mutual interdependence" (Nye, 1968). In a broad sense, regions are characterized by a shared sense of identity and purpose. Regional neighbors don't just share a geographical proximity but may also have a common history, culture, language, religion, and political institutions that facilitate

[50] See http://popstats.unhcr.org. This variable does not necessarily signify that the totality of a country's IDP population is under its protection of UNHCR but simply that IDP issues are a part of UNHCR's agenda.

communication and the spread of ideas. They are the sites of large flows of people, information, and goods. To a larger of lesser extent regions may be politically and economically integrated and share common governance institutions.

Historically, regional multilateral organizations and human rights institutions have been a source of the regional diffusion of human rights norms. Organizations such as the Inter American Commission on Human Rights (IACHR) can pressure countries to comply with human rights norms though direct methods of naming and shaming. Regional norm diffusion, however, can also take the shape of less direct processes of social acculturation such as mimicry, social influence, and persuasion (Goodman & Jinks, 2004; Johnston, 2001, 2008).

These regional forms of pressure and socialization are difficult to capture quantitatively. The dataset attempts to control for regional mechanisms of norm diffusion by including a regional variable using the World Bank's classification[51] which divides the world broadly into six regions: Latin America & the Caribbean, Europe & Central Asia, Middle East & North Africa, Sub-Saharan Africa, Asia-Pacific, and South Asian Region. The study also includes a measure of the regional density of commitment. This last indicator measures the proportion of countries, among those that have experienced internal displacement, that have signaled commitment to the regime through domestic legislation. It is hoped that this variable can somehow help to capture the phenomenon of regional isomorphism, which is referenced repeatedly in the literature on norm diffusion (Acharya, 2004; Checkel, 1999; Finnemore & Sikkink, 1998; Gellers, 2012; Simmons, 2009; Simmons & Elkins, 2004).

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[51] Although there are a variety of ways to parcel out regional distributions the World Banks's makes perhaps most intuitive sense and has been used in previous studies on international human rights norms diffusion. See, Simmons' seminal study of the human rights regime. (2009)

Variables Relating to International Instrumental Pressure

As discussed in the previous chapter, it is unlikely that the diffusion of international IDP norms is the result of coercive pressure by powerful countries on weaker countries. The regime historically has lacked powerful international state sponsors. Hegemonic powers, such as the US have, so far, never used force or the threat of force to push the IDP agenda.[52] Nevertheless this study aims to test the hypothesis that countries that have traditionally championed human rights (i.e. the US and the EU) may exert some type of instrumental influence to modify countries' behavior with regards to IDPs, albeit using softer mechanisms of issue-linkage.[53]

Although it is difficult to capture quantitatively when or to what extent material pressure is exercised internationally, it is possible to determine when opportunities for the use of external leverage exist. We would expect, for example, countries to be more vulnerable to international pressure to comply with the GP when international peacekeeping forces are on the ground. We would also expect countries that are highly dependent on development aid to be more vulnerable to issue-linkage.

To this end, the dataset includes a dummy variable that indicates when a country hosts an internationally mandated peacekeeping operation (UN, NATO, AU, etc.).[54] Also, as a proxy measure of a countries' dependence on international economic assistance the dataset includes a variable to indicate the volume of foreign aid received as

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[52] It is possible that some countries have undergone pressure from occupying powers or states or entities with a military presence in that country to address the issue of internal displacement (i.e. Iraq from the Iraqi Provisional Authority, Timor-Leste from the UN Peace Keeping Ops, and Somalia from Uganda) but these seem to represent rare exceptions. Experts interviewed characterized the US' response to internal displacement as highly selective (i.e. comparatively little pressure on Colombia and Afghanistan).

[53] USAID, for example, has had in place since 2004 an official policy on assistance to IDPs whose purpose, among other things is to: "encourage wider international recognition and support for the Guiding Principles on Internal Displacement as a useful framework for dealing with IDPs.

[54] This data was obtained from the United Nations Department of Peacekeeping Operations and reported in the World Bank's World Development Report 2011.

a proportion of GDP. This value was calculated using the figures reported by The World Bank Development Report 2011 (for years 1998-2007).

Variables Relating to Social mobilization

Much of the literature on human rights norm diffusion gives credit to social mobilization for pressuring states into committing and complying with human rights norms (Murdie & Davis, 2012; Risse-Kappen et al., 1999; Simmons, 2009). Although it is difficult to capture such pressure quantitatively, various studies have tired to utilize a number of proxy indicators.

One indicator commonly used to measure social mobilization (or civil society strength) is a count of the number of international human rights organizations with domestic participation in a country, using as a source the *Yearbook of International Organizations* (E. M. Hafner-Burton & Tsutsui, 2005; Hathaway, 2002; Keith, 1999; Tsutsui & Wotipka, 2004). Hughes et al (Forthcomming) operationalize a similar indicator to measure domestic ties to women's transnational organizing. The data also include a variable developed by Murdie and Davis (2012) that measures the network density of human rights international non-governmental organizations (INGOs) by counting the number of human rights INGOs having national sections, individual members, or affiliate organizations in a state in a given year.[55]

Another variable included in the data to measure the extent of engagement by INGOs in a certain country, also used by Murdie and Davis (2012), quantifies the number of shaming events by INGOs for each country for every given year. This variable was

[55] Unfortunately there is not a readily available, comprehensive dataset for this measure that includes all countries and years in this analysis. This variable was missing a significant amount of data (slightly over 40%). To compensate for this, the dataset also includes a measure of INGO engagement.

generated using data from Reuters' Global News Service reports concerning human rights organizations collected by the IDEA project. Although it is unlikely that most "human rights shaming events" would relate specifically to issues of internal displacement, this is perhaps the best indicator of human rights INGO pressure available.

Variables Relating to Cultural Match

For some time constructivists have argued that preexisting local understandings, beliefs and obligations condition the impact of international norms on policy debates (Cortell & Davis, 2000). An international norm's level of domestic salience has been often referred to as "cultural match." Checkel (1999) defines cultural match: *as a situation where the prescriptions embodied in an international norm are convergent with domestic norms, as reflected in discourse, the legal system (constitutions, judicial codes, laws), and bureaucratic agencies (organizational ethos and administrative procedures).* When such a match exists and an international norm resonates with domestic norms and institutions, diffusion is said to be more rapid (DiMaggio & Powell, 1991; Hugill & Dickson, 1988). Domestic actors are likely to take the norm as a given and comply with its obligations. Conversely if a norm clashes with preexisting domestic beliefs and obligations it is unlikely to effectively generate the necessary support to affect policy changes.

As discussed previously, it is difficult to conceptualize or measure "Cultural Match" with the GP. To test the effect that cultural match has on countries' propensity to commit to the IDP regime the data include three possible proxy indicators of cultural match. A first indicator measures countries' level of embeddeness in the existing international human rights and humanitarian regimes within which the IDP regime is

entrenched. This indicator counts the number of intentional human rights treaties and conventions each country is party to for every given year and was calculated using a dataset generated by Simmons (2009).

Although countries' level of commitment with relevant international norms – many of which are the basis of the GP – is certainly important, it is not a perfect measure of cultural match. To date, most of these international human rights instruments have been almost universally adopted including by notorious human rights violators who pay little subsequent attention to these norms. Conversely, for reasons unrelated to these norms, some countries, such as the US, have refused to sign on to many international human rights treaties while maintaining a historically solid record of compliance with their obligations. To compensate for this weakness the dataset includes two other possible indicators of cultural match – a measure of democracy and a measure of countries' respect for human rights.

Traditionally, democracies have been the natural allies of human rights (Simmons, 2009). Human rights ideals had their genesis and their greatest international champions within the western democratic tradition. Studies also suggest that democratic countries are more likely to comply with human rights norms than autocratic countries (Poe & Tate, 1994; Poe, Tate, & Keith, 1999). It is not surprising that the 1993 *Vienna Declaration and Programme of Action* at the 1993 UN Human Rights Convention refers to democracy and human rights as: "interdependent and mutually reinforcing freedoms" (Donnelly, 1998). Because the IDP regime is clearly embedded in the human rights regime a measure of countries' democracy will capture another important dimension of "cultural match."

As a measure of democracy the data include Freedom House's yearly composite civil liberties and political rights scores. These are widely used in empirical research and

by the policy community. Of all subjective measures, the Freedom House ratings are perhaps the most conceptually similar to major definitions of democracy and have less measurement error than other alternatives (Bollen & Paxton, 1998).[56] Although Freedom House breaks down its index into separate scores for political rights and civil liberties, to get a more comprehensive measure of democracy, the dataset utilizes the added scores of civil and political rights, which is then treated as a continuous variable (Hughes et al., Forthcomming).

As a measure of a country's respect for human rights the dataset includes Cingranelli-Richards (CIRI) Human Terror Index. This is an 8-point additive index that takes into account countries' behavior with respect to torture, extrajudicial killing, political imprisonment, and disappearance. There are other widely used human rights measures, such as Amnesty International's Political Terror Index and US Department of State's Terror index. However CIRI's human terror index is perhaps a better measure of respect for human rights because it can be treated as a continuous variable and it is highly correlated with two other indices.

Variables Relating to Important Domestic Factors

As explained in the previous chapter, there are a number of domestic factors pertaining to countries and their displacement crises that could possibly affect the success of the different pressure mechanisms in promoting commitment with the IDP regime. Principal among them are the causes, magnitude and duration of each displacement crisis. When considering the effects of different sources of pressure it is important to control,

[56] In auxiliary models, I tested an alternative measure of democracy from the POLITY IV project but found no substantive changes to the results reported.

for example, for the extent to which states are responsible for displacing their own population. Other factors that need to be considered are the state of hostilities – whether countries have achieved peace or continue to be at war – and states' capacity to implement these norms. The following section describes several important domestic structural factors that are controlled for in this study.

Magnitude of Displacement Crisis

The magnitude of a displacement crisis may affect a country's propensity to commit to the IDP regime in two possible but potentially contradictory ways. All things being equal, a comparatively large displacement crisis could lead policymakers to experience more domestic and international pressure to address the problem than they would if they had a comparatively small crisis. Among other things, large IDP crises are harder to ignore. Human rights activists and international norm entrepreneurs are more likely to focus their attention and their limited resources on what they perceive to be the most urgent cases of displacement. Conversely, countries with very small IDP populations could be more likely to ignore the issue particularly if they are facing more pressing problems. Mexico may be a good example of this phenomenon. Despite having an IDP population since the outbreak of the Zapatista uprising in 1994, Mexico until recently was one of the few countries in Latin America that did not commit to the IDP regime.[57] This may have been explained by the fact that Mexico's displaced population is relatively very small (less than 16,000 or .0001 of the total population) so it did not

[57] In February 2012, the Chiapas state congress passed a bill on internal displacement which had been drafted with the support of various UN agencies and civil society representatives. It is the first such law to be passed in Mexico, and it incorporates the Guiding Principles. (See: http://www.internal-displacement.org/8025708F004CE90B/(httpCountries)/031D4DA9792CF185802570A7004CFD1A?opendocument)

raise the same level of alarm among international and domestic audiences as IDP crises in Colombia Peru and Guatemala.

On the other hand, having a comparatively large IDP population could also make some countries less willing to commit to the regime because commitment represents a more onerous and costly responsibility. In Cyprus, for example, approximately one third of the population has been displaced for over 20 years. In some countries in Sub-Saharan Africa between one fifth and half of the population has been episodically displaced.[58]

Despite significant advances in data collection, forced migration experts recognize that estimating IDP figures remains somewhat problematic (Danevad & Zeender, 2003; Sert, 2008). Unlike UNHCR and the transnational refugee regime, the IDP regime lacks the mandate and the institutional capacity to estimate the number of IDPs in any sort of systematic way. Instead, IDMC, a relatively small NGO, does its best to collect countries IDP estimates by compiling statistics generated by a variety of entities including UN agencies, local governments as well as other NGOs and humanitarian organizations. In some cases the figures are often reported as a broad range. IDMC admits that: "in some countries, lack of humanitarian access makes it impossible to compile anything but a rough estimate." In other countries where estimates vary widely, IDMC calculates a median figure using the highest and lowest estimates (Danevad & Zeender, 2003) . Nevertheless, having gained substantial experience in the politics behind IDP figures in many countries, IDMC feels competent to critically assess the reliability of the various sources and chooses, in most cases, the most conservative figure among available estimates.

[58] During the worse part of Liberia's civil war in early 1990s there were over one million IDPs accounting for approximately one half of that country's population.

Some experts have argued that, aside from the fact that they are difficult to collect, IDP statistics are inherently political (Ramussen, 2006). In internal armed conflicts various actors, including aid agencies, donors, and local governments have incentives to exaggerate or downplay the estimated numbers of IDPs (Holtzam & Nezam, 2004; Stoddard, 2004). Another problem with estimations is that there is no clear agreement on when a person ceases to be displaced – instead there are only ad hoc or inconsistent determinations on the cessation of IDP status, which sometimes arbitrarily decreases or increase the estimated number of IDPs (Sert, 2008).

Because of the various issues listed above, this study treats estimates rather conservatively. In cases when IDMC reports a range, this I use the lowest estimate as other studies have done in the past (Orchard, 2010b). Despite its limitations, this is ultimately the best information available, and I trust that, for the purposes of this study, a rough estimate of the magnitude of the displacement crisis is sufficient.

To control for the absolute size of the displacement crisis the dataset includes an estimate for the number of IDPs for each country for each year. This is a continuous variable based on reports by the US Committee for Refugees (USCR), for the years 1990-2000 and the Internal Displacement Monitoring Center (IDMC), for years 2001-2010.

As an indicator of the relative magnitude of the displacement crisis the data also include a measure of the relative size of IDP crisis, which represents the estimated number of IDPs as a proportion of a country's total population (as reported in the World Bank Development Indicators).

State of Hostilities

As explained in the previous chapter, another important structural factor that must be accounted for is the state of hostilities in countries with IDPs. *Ceteris paribus*

countries at peace should be more likely than countries at war to commit to the IDP regime. To control for countries' state of hostilities the dataset includes a variable coded manually using data from the Correlates of War (COW), Uppsala Conflict Data Program (UCDP), as well as IDMC and press reports. This is a binomial variable that indicates for any given years, whether hostilities were active or inactive. Cases were coded inactive when a peace treaty or cease-fire agreement was signed or when a some sort of peaceful protracted stalemate was achieved, as is the case for example in the Golan Heights or Cyprus.

Protraction

The data include a binomial variable to control for protracted displacement. Protracted situations of displacement are defined as countries with more than 25,000 IDPs which have been displaced for over 5 years.[59] These situations are qualitatively different form episodic displacement, where IDPs are on the move for a relatively short time and tend to return as soon as the security situation at home improves.[60] Protracted displacement are situations for which there is not a quick solutions and where IDPs do not really have the option to return to their homes (2007). In the absence of quick answers to displacement, all other factors being equal protracted displacement represent a particular humanitarian challenge for states which could affect willingness to commit to the regime (Mundt & Ferris, 2008).[61]

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[59] Although there is not a universally accepted definition of a protracted situation for internal displacement, the UNHCR uses the crude measure of refugee populations of 25,000 persons or more who have been in exile for five or more years in developing countries. Quoted in (Mundt & Ferris, 2008)

[60] Some examples of episodic displacement include: East Timor (2006-2009); Ghana (1995); Guinea-Bissau (1998-1999) and Haiti (1990 & 1993).

[61] Also see Statistical Yearbook 2006; Trends in Displacement, Protraction and Solutions. (Annex). UNHCR (Dec. 2007).

Cause of Displacement

As discussed in the previous chapter, the underlying cause of displacement is likely to affect countries' propensity to commit to the IDP regime. While most internal displacement is the result of internal armed conflict, whether in the form of civil wars, insurgencies, ethnic clashes of generalized violence; in some cases displacement is the results of inter-state war or individualized political persecution.

It is possible that countries undergoing inter-state conflict, where displacement is mostly the result of actions committed by an external party, may commit to the IDP regime as a signaling mechanism to call international attention to the conflict and elicit international support. Not surprisingly, some of the first countries to institute domestic legislation to protect IDPs, such as Georgia, Armenia, Azerbaijan, were involved in internationalized conflicts. Conversely, countries where displacement is the result of individualized political persecution by the state (i.e. Zimbabwe, Iraq during the 1990s, and Haiti 1991-1993) may be less likely than others to call attention to their displacement crises.

The data include a categorical variable that indicates whether internal displacement was primarily the result of: internal conflict, international conflict, or individualized political persecution. This variable was manually coded using IDMC country and yearly reports as well supplemental data from press reports, the Correlates of War dataset, and the Political Instability Task Force (PITF) Consolidated Problem Set.[62]

[62] PITF Historical Armed Conflict and Regime Crises 1955-2010, last updated on May 7, 2010.

Regime Induced Displacement

The data also include a categorical variable called "Regime Induced Displacement ("RID')" to capture the responsibility of the state in displacing its own population. This important concept as originally defined by Orchard (2010a). However, while it is important to differentiate cases where the state is primarily responsible for producing the displacement, the concept of RID is somewhat problematic. Although this study as well as Orchard's codes RID as a dichotomous variable (it is either happening or it isn't happening), in reality RID operates within a spectrum. Rarely can states be absolved completely of responsibility for internal displacement occurring within their territory. In most cases, the extent of the state's responsibility for causing internal displacement is the subject of much debate and in the midst of war there is rarely enough reliable information with which to make a clear determination. Because of this, I have coded this variable conservatively to include only cases where evidence for the regimes' responsibility for displacing their own population was overwhelming.

Orchard initially constructed a qualitative dataset in which he coded most reported cases of internal displacement using Human Rights Watch, Amnesty International and the US State Department Country Reports. Because his dataset excludes a significant number of crises (23) between 1991and 2006, I have manually re-coded all IDP crises myself using the same sources in addition to IDMC's yearly and country reports.

State Capacity

State capacity, as previously discussed, could determine countries' ability and willingness to comply with the GP. Although state capacity is most likely to affect

countries' ability to implement rather than commit to demanding and costly international guidelines it is possible that countries may take their ability to implement these nomrs into consideration when deciding whether to commit to them.

Although measures of state capacity to comply with particular prescriptions of the GP are difficult to operationalize and are not widely available, it is possible to test the effects of state capacity in a very general way. To this end, the data include the *State Fragility Index* (SFI) of countries as reported by the Polity IV Project as well as countries' log GDP per capita. Whereas the SFI – a 25 point score – provides a general measure of states' level of effectiveness and legitimacy GDP per capita provides a general measure of economic development.[63]

METHOD

In order to explore quantitatively what factors are driving commitment with the international IDP regime this study conducts three sets of statistical analysis. In a first instance I attempt to establish that commitment has a notable effect on the size of countries' displacement crises. The study then proceeds to present a broad overview of the state of commitment with the regime and to reveal some interesting patterns using descriptive statistics. Finally the study tests the explanatory power of the various factors derived from international relations theory and forced migration studies described above by running a series of event history models.

The purpose of the descriptive statistics is to generate a clear picture of commitment with the regime and its evolution since its inception. The purpose of the

[63] Simmons (2009) GDP per capita logged (in constant 2000 USD) as reported by the World Bank Development Indicators. Source: World Bank Development Indicators last visited 8/2012.

event history analysis is to tease out the merit of competing hypotheses of norm diffusion by determining what factors best predict a country's propensity to commit to the IDP regime by instituting domestic legislation to protect IDPs. This process should allow us generate more refined hypothesis about the causal dynamics of commitment that can later be tested though qualitative case studies.

WHY COMMITMENT MATTERS: THE EFFECT OF COMMITMENT ON THE MAGNITUDE OF DISPLACEMENT

This section makes the case that commitment matters by suggesting that, on average, countries that commit to the regime see a significant decrease in the proportion of IDPs. It also takes an initial look at the evolution of commitment between 1990 and 2010 using descriptive statistics, partly to determine if there are any obvious explanations for what is driving commitment.

As discussed in the previous chapter, a country's commitment to the regime is an important and necessary first step in addressing the problem of displacement. As the framers of the GP have repeatedly advocated, for countries to comply with the GP they must first institute domestic legal and political frameworks that recognize the rights of IDPs enshrined in these norms and recognize the state's responsibility to address the problem.

Until now, however, there has been little empirical evidence to suggest, in any systematic way, that commitment or compliance with the IDP regime are associated with changes in displacement crises. The creation of this original dataset grants us the opportunity to take a first look at whether the institution of domestic legislation to

address internal displacement correlates with changes in the magnitude and trend of displacement.

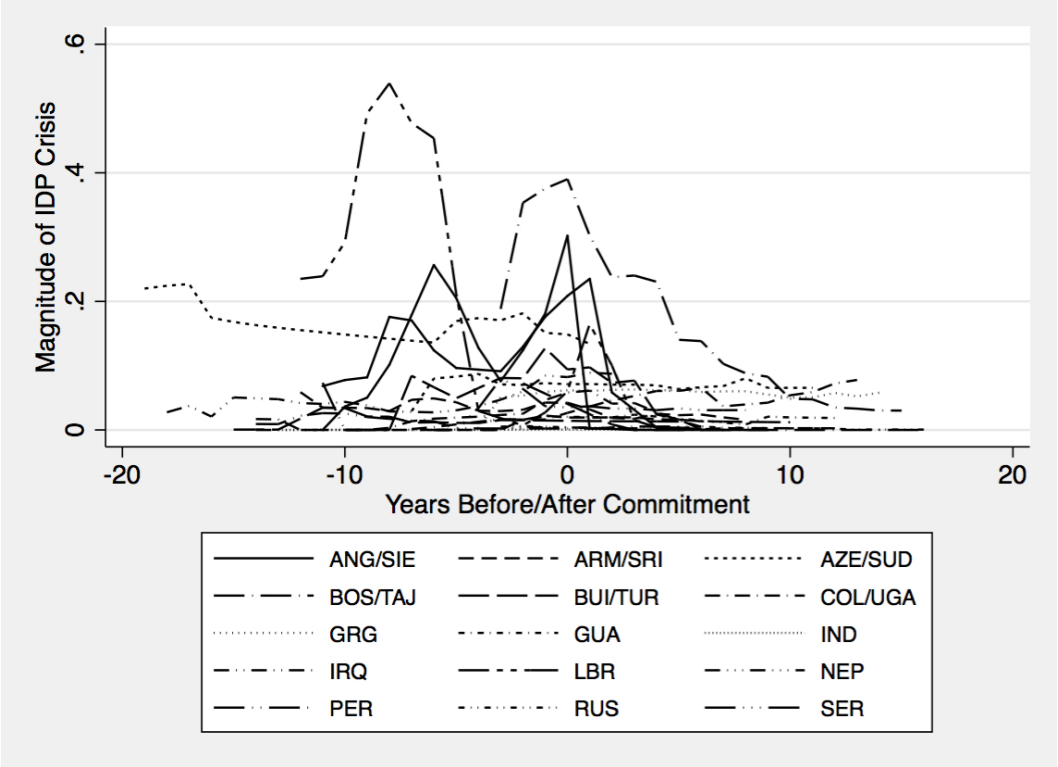
There are, of course, many factors that could theoretically affect the magnitude of a country's displacement crises aside from commitment. The underlying causes of displacement, for example, could be removed through a cessation of hostilities or a change in regime leading to a return of IDPs. Cease-fires of peace treaties may be negotiated, peacekeeping operations or foreign intervention may put an end to an ethnic cleansing campaign. Given the imperfect nature of much of the data, this study cannot pretend to properly control for all of these factors.

However a cursory look at changes in the magnitude of internal displacement crises at the country level (measured as the proportion of a country's population that is displaced) before and after commitment seems to indicated that displacement tends to decrease after commitment.

Figure 4 plots the evolution of the magnitude of displacement crisis for the 21 countries that have committed to the regime. The figure centers each country curve at the year of commitment (t = 0). With the exception of two outliers, Liberia and Bosnia & Herzegovina,[64] the magnitude of countries' displacement crisis appears to fluctuate between 0 and 30% of the total population with displacement peaking around the time of commitment.

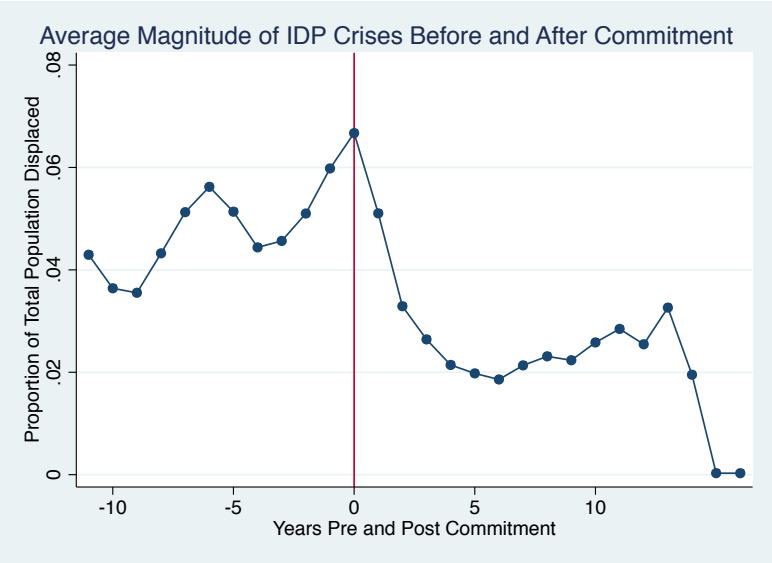
[64] During the mid 1990s, at the height of Liberia's First Civil War, the country saw a relatively short but intense burst of displacement. In 1994 approximately 54% of the country's population of 2.04 was displaced. By 1999 the IDP estimates had decreased to approximately 50,000. A second wave of displacement during Liberia's Second Civil War (1999-2005) saw much smaller wave of displacement (peaking at 500,000 in 2003). The second outlier in the dataset is Bosnia, which experienced a massive burst of displacement following the breakup of Yugoslavia (peaking at 1.3 million or 39% of the country's population by 1995).

Figure 4: Fluctuations in the Magnitude of Displacement for Committed Countries for Years Before and After Commitment



A plot of the average magnitude of displacement (Figure 5) suggest that, on average, countries that committed to the regime by instituting domestic legislation to protect IDPs saw a dramatic decrease in the magnitude of displacement within the fists five years.

Figure 5: Average Magnitude of Displacement Before and After Commitment

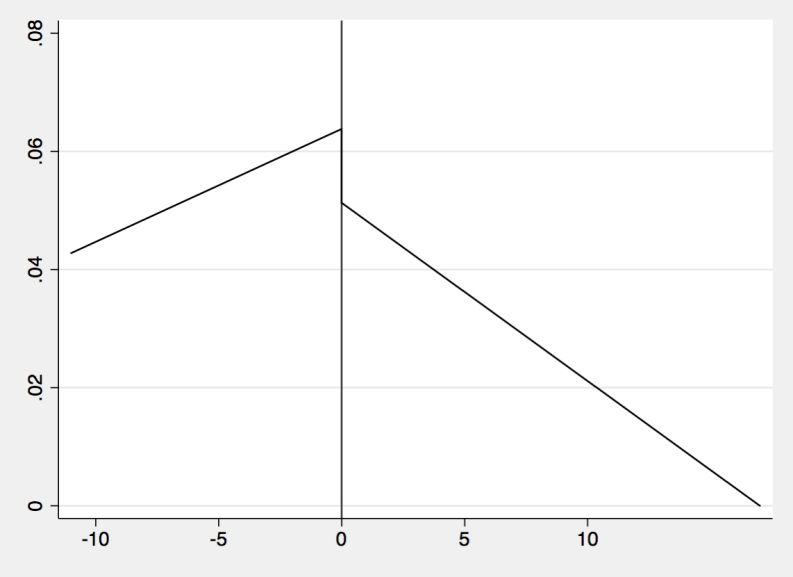


It is difficult to estimate the significance of this trend using statistical tools available, particularly given the limitations of the data. A segmented regression test (allowing for a knot and a jump at the time of commitment) confirms that there is a significant change in the slope of the regression curve following commitment as illustrated by Figure 6.[65] The change in the intercept or "jump," however, did not prove

[65] This regression involves fitting separate line segments, demarcated by a knot and a jump that might account for non-linearity between the predictor and outcome. A knot allows for a change of slope (or trend in the magnitude of the displacement crisis) while a jump (or change in intercept) allows for an immediate decrease in the magnitude of displacement when a country commits.

significant. This should not be surprising given that displacement crises cannot be alleviated overnight.

Figure 6: Regression Curve of Magnitude of Displacement Before and After Commitment



Because this dataset only looks at countries that committed to the regime, it is of course, possible that the results capture a problem of selection. We can't discount the possibility that countries that commit are also countries that are already seeing a radical shift in the their IDP crisis either because of a change in state behavior or an exogenous change in the underlying cause of displacement (i.e. peace agreement, military occupation etc.) which may have lead to a very overstated effect of commitment.[66]

[66] A differences-in-differences model is one attempt to deal with selection bias. This test looks for change from baseline among countries that committed and those that did not. A difference-in-differences test that I ran on a dataset that including all countries did not show that commitment had any significant effect on the magnitude of countries' displacement crises. This method, however, is somewhat problematic for my type of dataset because it is only able to compare two arbitrarily selected points in time (pre and post treatment

With this in mind, a prima facie look at the data provides enough evidence to be cautiously optimistic that commitment with the regime, as signaled by the enactment of domestic law and policies in accordance with the GP, in fact matters greatly. Having established that my dependent variable is important, this chapter now turns to the central question of this dissertation to uncover the factors that lead countries to commit to the IDP regime.

EVOLUTION OF COMMITMENT WITH THE GUIDING PRINCIPLES

In an attempt to better understand quantitatively what is driving commitment this study takes an initial look at the evolution of commitment between 1990 and 2010 using descriptive statistics. This simple exercise not only seeks to address an important data gap by providing descriptive information about the state and evolution of displacement but may also reveal some patterns that could be suggestive of the motives and processes driving commitment.

Growth in Commitment

The data first reveal that in the past two decades commitment with the IDP regime has grown steadily. A look at the adoption of laws and policies on internal displacement shows that, since the inception of the regime in 1992, there has been a steady increase in the number of countries that have instituted domestic legislation to address internal displacement (Figure 7). By the end of 2010, 21 countries had in place laws and policies that signaled commitment. Some of theses, including legislation in Armenia, Russia, Guatemala, Georgia and Colombia pre-dated by a few years the official adoption of the

with treatment being roughly in between). For cases when commitment may have occurred right before or after the time interval, effects of commitment may not have had time to fully manifest themselves.

Guiding Principles by the United Nations and in many ways anticipate the principles. This, of course, is not unusual, because since 1992, when the RSG's mandate was established, the RSG's and other entities in the international community strongly pushed countries suffering from internal displacement to assume responsibility and address the problem.

Figure 7: Adoption of Domestic Legislation to Protect IDPs

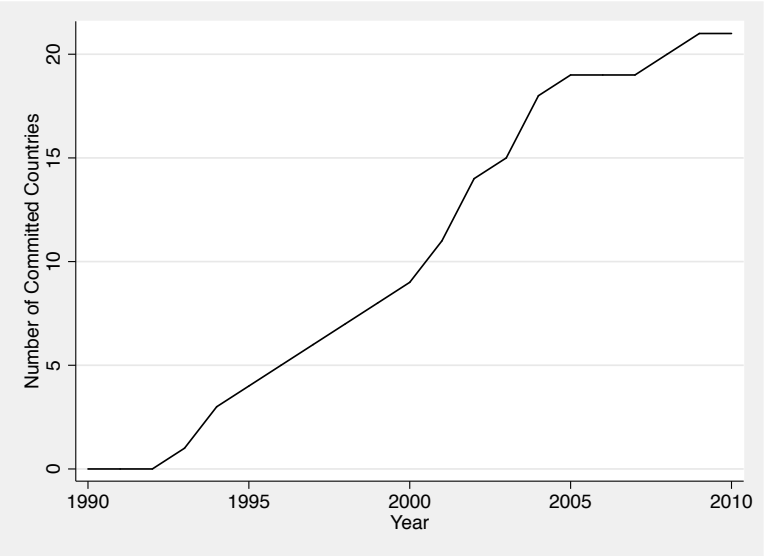
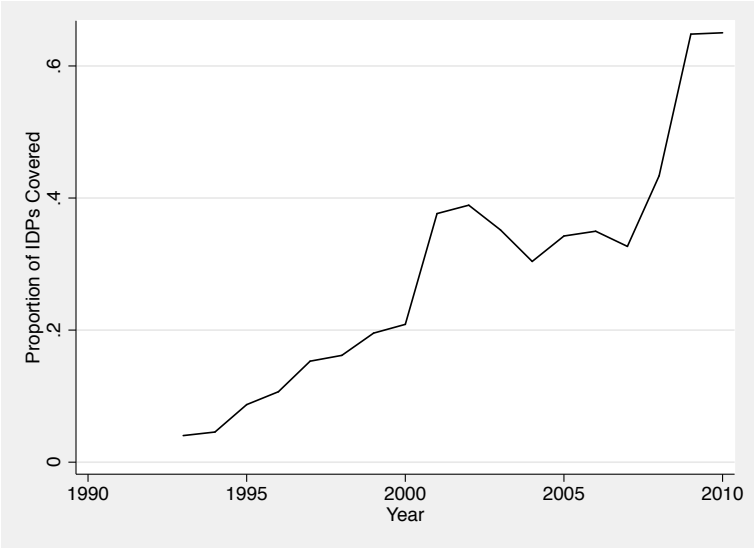


Table 1 (on page 68) provides a chronological list of all domestic instruments on internal displacement that signal a commitment with the regime that were adopted from 1990 to 2010.

The data also show that the growth in commitment has kept place with the dynamic nature of the problem. The proportion of IDPs protected by domestic legislation promoted by the regime has grown steadily, as illustrated by figure 8. By the end of 2010 close to 70% of the world's IDPs lived in countries that had committed to the regime.[67]

[67] This figure may have changed slightly with the explosion of IDP crises in Nigeria and Syria post-2010.

Figure 8: Proportion of IDPs Protected by Domestic Legislation



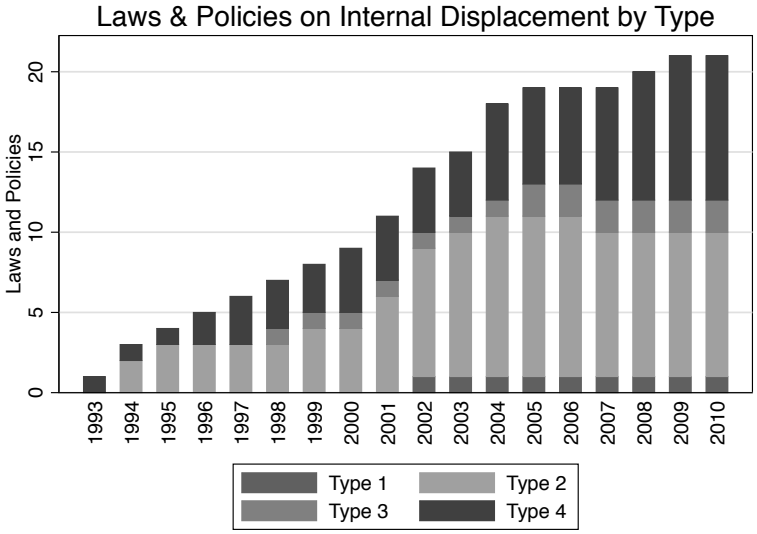
Because internal displacement is a dynamic phenomenon that is constantly in flux – new crises emerge as others are resolved – an increase in the number of countries committing to the regime does not necessarily translate into an increase in the number or proportion of IDPs being affected by that commitment. The data demonstrates that, at least until 2010, the regime kept pace with the evolution of displacement.

The data also reveals that commitment to the regime has taken various forms. As Wyndham, Orchard, and others have observed (Ferris et al., 2011; Orchard, 2014; Wyndham, 2006), national legislations have generally followed four different models. Wyndham (2006) categorized these as:

1. A brief instrument adopting the Guiding Principles
2. A law or policy developed to address a specific cause or stage of displacement
3. A law or policy developed to protect a specific right of the internally displaced
4. A comprehensive law or policy addressing all causes and all stages of displacement

While Wyndham provided only a few examples of each type of law, the remaining laws in the dataset were coded using her typology. The data show that most countries adopted either a policy aimed at addressing a specific cause or stage of displacement (type 2) or a comprehensive law or policy addressing all causes and stages of displacement (type 4). Liberia provided the only example of a brief instrument adopting the GP (type 1). In the case of Nepal, a type 2 law was initially adopted in 2004 but was later amended to become a type 4 law addressing displacement more comprehensively. Figure 9 illustrates the evolution of commitment to the regime by type of legislation.

Figure 9: Laws and Policies on Internal Displacement by Type of Law

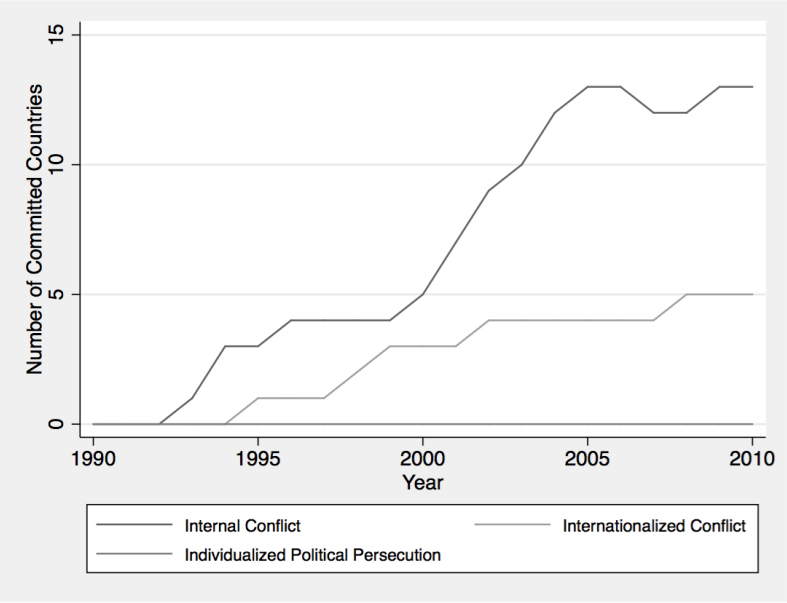


Commitment

Having established that commitment, in various forms, has steadily increased during the past two decades, I now look closely at the types of countries that have committed to the regime. A cursory look at the data reveals that commitment has grown steadily in countries suffering from different types of displacement and conflict.

A breakdown of commitment by cause of displacement reveals that, commitment has grown among countries undergoing purely internal conflict and countries undergoing international conflicts.[68] Interestingly enough none of the cases where displacement was the direct result of individualized political persecution (i.e. Zimbabwe, Iraq and Haiti in the 1990s) instituted domestic legislation to protect IDPs.[69]

Figure 10: Commitment by Cause of Displacement

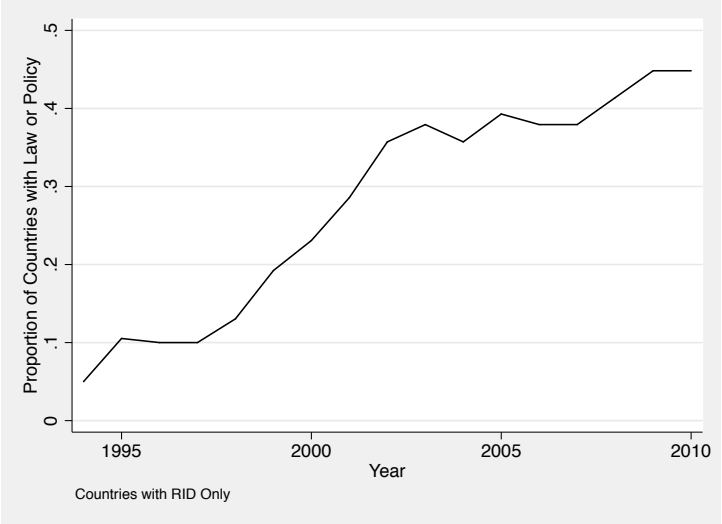


[68] The difference in the rate of commitment may simply reflect the fact that there are many fewer countries where displacement is the result of international wars than countries where it is the result of internal conflict.

[69] Iraq eventually committed to the regime following the toppling of Saddam Hussein and occupation by Western forces, by that time causes of most displacement had changed.

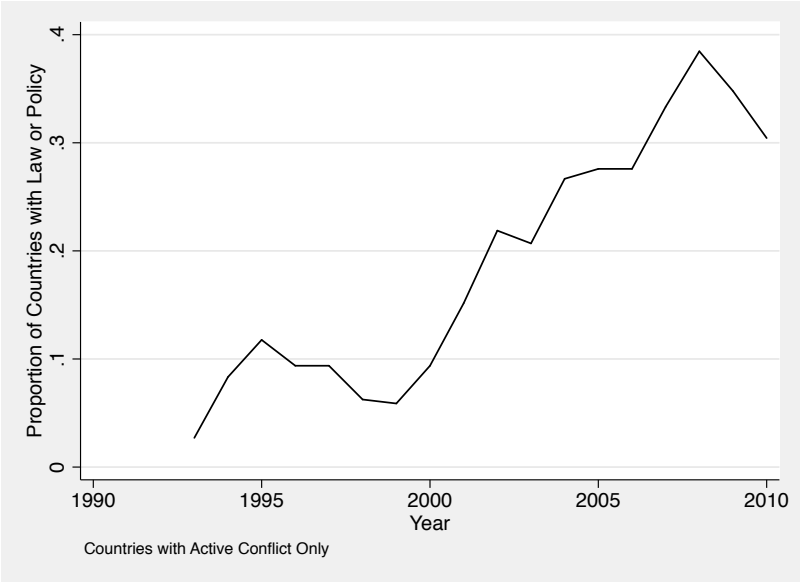
Commitment, however, has increased among countries where the regime is principally responsible for causing the displacement (RID) (see Figure 11). In the past 20 years the proportion of countries with RID that have committed to the regime has grown steadily. By 2010, over 40% of them had in place some sort of domestic legislation to protect IDPs.

Figure 11: Proportion of Countries with RID that have Committed to the IDP Regime



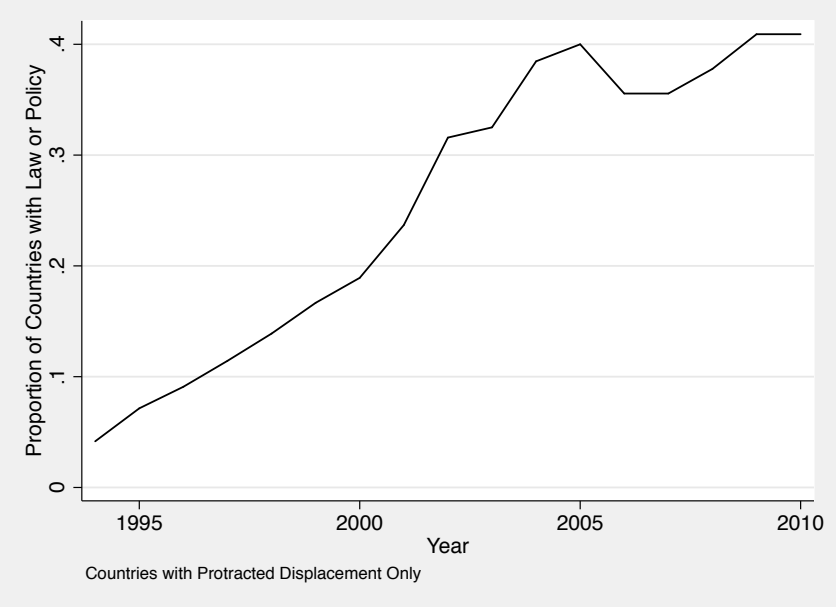
A first look at commitment also appears to suggest that the state of hostilities does not affect countries' rate of commitment. As illustrated in Figure 12, the proportion of countries with active conflict that have committed to the regime has increased. This is somewhat surprising and encouraging given that, as previously discussed, countries at war should theoretically be less likely to commit. Although the slight drop in 2007 appears worrisome it may simply reflect that certain large conflicts have ceased to be active. Once again, this is an indicator that is tested later using event history analysis.

Figure 12: Proportion of Countries with Active Conflict that have Committed to the IDP Regime



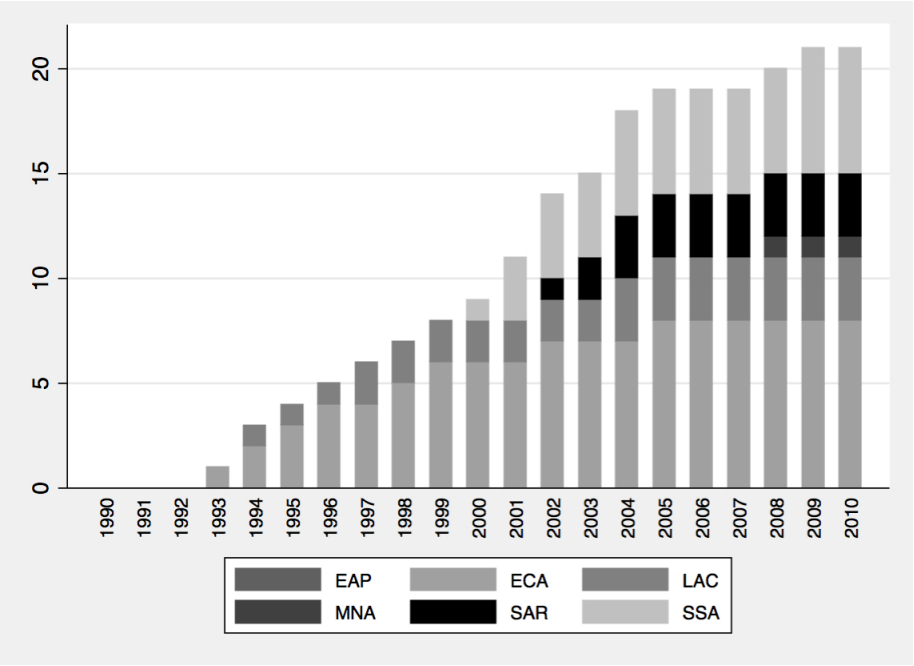
An initial look at the rate of commitment suggests that the proportion of countries with protracted displacement that have committed to the regime has also increased steadily. As of 2010, 40% of these countries had in place domestic legislation to protect IDPs.

Figure 13: Proportion of Countries with Protracted Displacement that have Committed to the IDP Regime



Perhaps the most striking finding revealed by a cursory look at the data is that the rate and timing of commitment to the regime over the past two decades appears to have followed clear regional patterns as illustrated by Figure 14.

Figure 14: Laws and Policies on Internal Displacement by Region



Although all regions of the world were affected by internal displacement between 1990 and 2010, commitment with the IDP regime appears to have occurred in regional clusters. The first group of countries to adopt legislation on internal displacement, during the 1990s, are in Europe/Central Asia and Latin America.[70] Despite the fact that Sub-Saharan Africa accounted for approximately one half of all internal displacement the continent did not begin to see commitment until the year 2000 when Burundi drafted an IDP policy as part of the Arusha Peace agreement, which was soon followed by the institution of laws in Angola (2001), Sierra Leone (2001) and Liberia (2002). This was then followed by a regional wave of commitment in South Asia, as Sri Lanka (2002),

[70] The first countries in Europe and the former USSR to commit were: Russia (1993); Tajikistan (1994); Bosnia (1995); Georgia (1996); Armenia (1998); and Azerbaijan (1999). In Latin America the first countries to commit were: Guatemala (1994) and Colombia (1997).

India (2003) and Nepal (2004) all drafted national policies on internal displacement in a two-year period.

With the exception of Iraq (2008) – which arguably constitutes a special case because the country was in essence occupied and administered by Western powers following the end of the Second Gulf War – the Middle East and North African region did not experience a similar dynamic of norm diffusion. Likewise, by the end of the 2000s, none of the countries with internal displacement in East Asia/Pacific committed to the regime.

This is certainly an intriguing pattern, which appears to suggest that the diffusion of the IDP norms may depend, to a large extent, on regional mechanisms of pressure and socialization (Acharya, 2004; Checkel, 1999; Finnemore, 1993; Gheciu, 2005; Keck & Sikkink, 1998; Risse-Kappen et al., 1999). These regional factors are tested more rigorously, later on, using event history analysis.

Effect of UNHCR involvement in IDP Crises

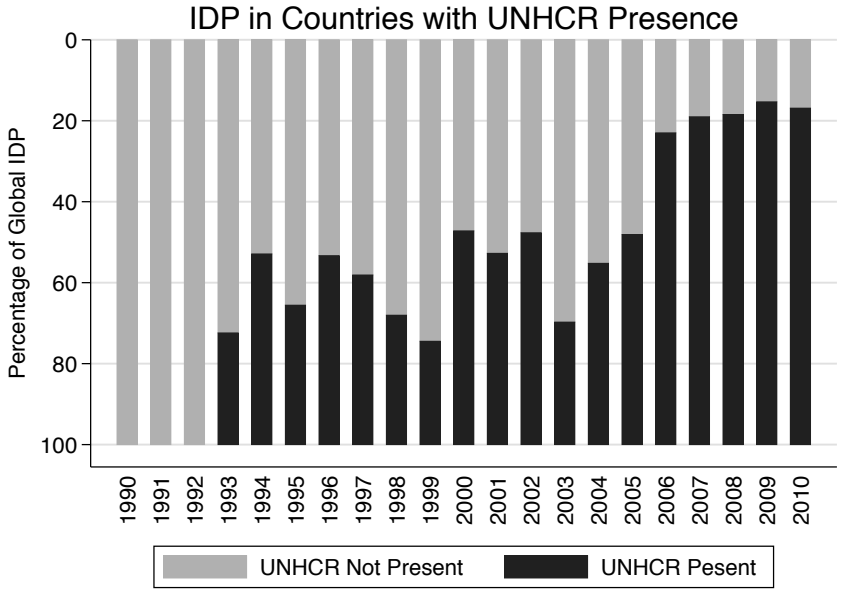
The creation of a large-n dataset of IDP crises databases allows us to take a first systematic look at the effects that UNHCR has had on internal displacement around the globe. Given UNHCR's increased involvement with this issue we are particularly interested in learning whether UNHCR's presence in host countries has had an effect in: (1) attenuating displacement crises, and (2) increasing the likelihood that host countries will commit to the IDP regime by enacting domestic legislation.

The data, in fact, confirms that between 1990 and 2010 UNHCR became increasingly engaged in countries with IDPs. This does not necessarily signify that the totality of host countries' IDP populations were under UNHCR's direct protection, as is the case of refugees. Often times only a small proportion of IDPs in these countries

receive direct aid and shelter from the UN agency. It does, however signify that internal displacement is part of UNHCR's mandate in these countries and consequently the agency has the potential to affect policy outcomes including commitment to the IDP regime.

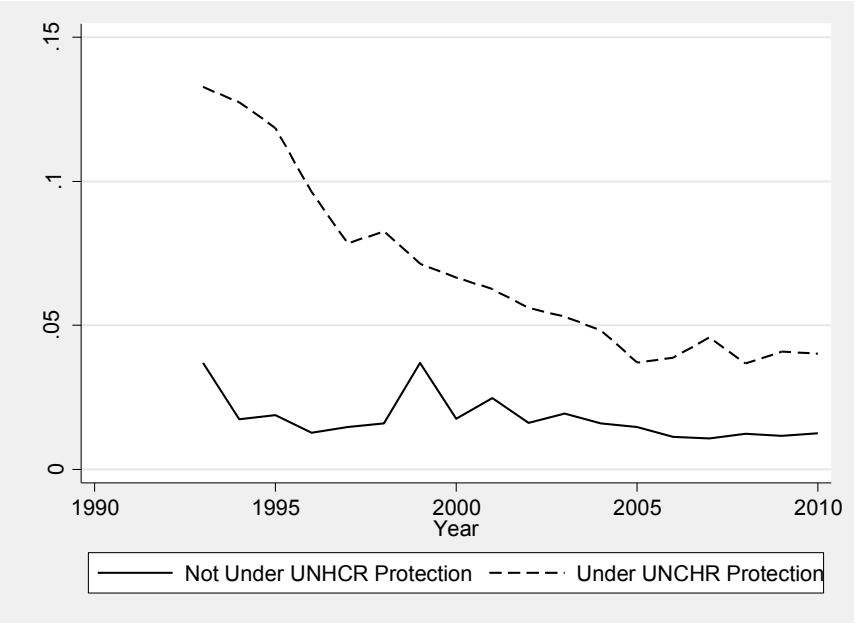
To some extent or another, UNHCR has been involved in protecting IDPs since the 1970s. During the 1990s the agency played a particularly prominent role in protecting IDPs in the Balkans, the South Caucasus, Colombia and Sri Lanka (Cohen, 2005). By the late-2000s, after the UNHCR assumed responsibility for leading the UN's IDP cluster, the agency was protecting IDPs in the vast majority of affected countries. Whereas in 1993 only approximately 30% of the world's IDPs were located in a country with UNHCR presence, by 2010 that number was closer to 80%.

Figure 15: Percentage of IDP Crises Covered by UNHCR



The data also shows that, on average, UNHCR's presence in IDP crises correlates with a significant reduction in the magnitude of displacement in those countries as shown in Figure 16.

Figure 16: Relative Size of IDP Populations in Countries With and Without a UNHCR Presence.



This graph illustrates that, over time, the mean percentage of IDPs, in countries with a UNHCR presence, declined significantly. This suggests that UNHCR has had a positive effect in alleviating the problem in countries where it is involved in protecting IDPs.

An alternative explanation is that this correlation suffers from the effects of selection bias. In other words, UNHCR may not have had a direct effect in alleviating displacement crises but may simply have correlated with a downturn in the number of IDPs that was cause by other factors – i.e. regime change, peace negotiations, or an end to hostilities. This is certainly a possibility worth considering because UNHCR rarely operates in a host country without the formal invitation and consent of the state. Given the limitations of the data it is difficult to know through quantitative means what is happening, controlling for all possible factors. It may however be possible to obtain a

better understanding of the real effect of UNHCR on host countries' IDP situation through process tracing in qualitative case studies.

A subsequent event history analysis conducted on the dataset, and which is discussed in more detail in the *Event History* section, also suggests that UNHCR's presence in host countries is strongly correlated with countries' higher propensity to commit to the IDP regime by adopting domestic legislation on internal displacement, even when controlling for a number of other factors (see Figure 17).

Although these statistical results are in no way conclusive, they certainly provide prima facie reasons to be optimistic about the effects of UNHCR's growing involvement in the issue of internal displacement. This is particularly encouraging because the UN agency has historically been reluctant to take on this added responsibility for fear of diluting or threatening its core mandate.[71]

So far the dataset has shown that commitment matters and that, on average, countries that enact domestic legislation to protect IDPs see a reduction in the magnitude of their displacement problem. Using descriptive statistics, I have illustrated that between 1990 and 2010 commitment to the IDP regime grew steadily, increasing the proportion of the world's IDPs protected by domestic frameworks. Quite surprisingly, the data suggested that commitment increased regardless of cause of displacement (even

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[71] In particular, UNHCR was concerned that its involvement in IDP protection efforts may have negative outcomes in cases where: (1) involvement might constitute or contribute to a strategy that is intended to contain displaced persons within the borders of their own country; (2) there is a risk that countries of asylum may renounce their protection obligations toward refugees, on the basis that the UN's IDP response in the country of origin provides them with an 'internal flight alternative'; (3) UNHCR's impartiality could be negatively impacted thus jeopardizing humanitarian access to refugee populations; (4) UNHCR's involvement with IDPS may compromise its relationships with host governments which could negatively affect its activities for refugees; (5) collaboration with other UN agencies in responding to IDP crises could allow countries of asylum to question the applicability of Article 1D of the 1951 Refugee Convention, which states that the Convention shall not apply to persons who are receiving protection or assistance from UN agencies other than UNHCR (Feller, 2006).

among countries where the state was the principal agent of displacement), the state of hostilities (whether countries were at war or at peace), and protraction. These findings may suggest that many of the structural factors expected to affect commitment matter very little. On the other hand, a cursory overview of the evolution of commitment showed that commitment has followed strong regional patterns perhaps suggesting that regional dynamics may have played a very important role in the IDP norm's diffusion. Moreover an initial look at the effect of UNHCR presence also suggested that that UN institution has had a positive and unexpected impact on internal displacement in host countries.

In order to better tease out correlation and explore the explanatory power of various factors identified by international relations theory in predicting countries commitment it is necessary to conduct some sort of regression analysis. This study now turns to this task using event history analysis.

EVENT HISTORY ANALYSIS

When looking at norm diffusion it is important to consider not only whether a particular country adopts a new norm but also when it commits. As explained by Box-Steffensmeier and Jones (2004), event history analysis can provide researchers leverage on the issue of timing of political change. It allows researchers to answer a more extensive set of questions than conventional analysis by using information on the number, timing, and sequence of changes in the dependent variable. Not surprisingly this method has been commonly used to study issues of norm diffusion in in the fields of international relations and comparative politics (Allison, 1984; Hughes et al., Forthcomming; Simmons & Elkins, 2004; Strang, 1991).

This study uses a Cox proportional hazard model.[72] The hazard model estimates a survival function that represents the probability that a country will not experience the event (e.g. commitment to the regime) later than some specified time *t*. The effect of each factor is reflected in the hazard ratio: A ratio greater than 1 increases and a ratio less than 1 reduces the likelihood that an uncommitted country will institute domestic legislation for IDPs in any given year. Once a country commits to the regime by instituting domestic legislation on internal displacement, it is dropped from the analysis.

Model Specification

The Cox proportional hazard model utilizes year as the unit time variable. The "event" is defined as a country's first institution of domestic legislation that signals commitment to the IDP regime. Table 1 on page 59 lists all laws and policies which, according to Brookings' Project on Internal Displacement, constitute commitment with the GP. The analysis treats the event as an irreversible and non-repeatable occurrence.[73] For this reason, the models utilized ignore all country data pertaining to years following commitment.

The models define the onset of risk – when a country enters the analysis – as the year when each country first experiences internal displacement. For countries where the displacement crisis pre-dates the inception of the regime risk is said to begin in 1992, when the UN instituted the IDP mandate and promoted the institution of national legal frameworks to address the problem. In doing this, the study makes the reasonable

[72] This method has become the preferred method to analyze policy adoption using binary time-series cross-sectional data (BTSCS) because, unlike alternative models such as the standard logit and probit approaches, the Cox model avoids the need to parametrize the baseline hazard function (Jones & Branton, 2005).

[73] While in theory, a country could repeal its commitment to the regime none has done so. I'm also afraid that that treating the event as repeatable may penalize latecomers to the regime who did not suffer displacement until much later in the time period examined and bias my results.

assumption that countries that have not suffered from internal displacement are not likely to draft legislation to address the problem. As discussed earlier, given the "soft law" nature of the guiding principles, countries without IDPs have not been pushed to institute the Guiding Principles in domestic legislation and would have little reason to do so.

Once a country enters the analysis, as a result of the onset of displacement, it is considered by the models to remain perpetually at risk – even if displacement ends. This is a necessary and reasonable assumption for two reasons. First, it is rare for a country to suffer a single, isolated case of displacement. The majority of the countries in our sample suffer from either protracted or chronic displacement because the underlying causes of displacement – namely ethnic antagonisms, internal conflict and the state's fragility – were rarely resolved after the end of a particular crisis. Secondly, countries that suffer displacement tend to remain targets of human rights pressure by international and domestic entities that want to avoid a repeated crisis, particularly when many of the underlying causes that provoked the displacement have not been resolved. Following an initial survey of displacement around the world it is feared that specifying the model otherwise could generate biased results.

Because various countries enter risk at different times, the model is specified to use "internal clock" time rather than "calendar time." To avoid endogeneity, and to ensure that time-dependent covariates precede the event, most time-dependent variables are entered in lagged form (Box-Steffensmeier & Jones, 2004). In other words, the model will only consider the prior values of time-dependent variables (such as RSG visits or State Fragility Index) to minimize potential biases from reverse or simultaneous causation.

Missing Data / Multiple Imputation

Due to the difficulty in obtaining data for all of the variables for all countries and for all years, missing values appeared throughout the dataset. Listwise deletion, the default in most statistical software, would have resulted in a sizable loss of observations and also likely introduced bias if the deleted observations were not missing completely at random (King, Honaker, Joseph, & Scheve, 2001). The problem of missing data was consequently handled through multiple imputation using tools available in Stata 12 (StataCorp 2012).

Specifically, twenty data sets were created in which each missing observation was imputed using the method of chained equations (Raghunathan, Lepkowski, Van Hoewyk, & Solenberger, 2001). This method iterates through all of the variables for which values must be imputed and then fits a regression model for each missing variable using other complete and incomplete data variables as predictors.[74]

The table below displays summary statistics for all of the variables used in the study. The first column lists the variable, the second and third columns present the mean and standard deviation before imputation, and the fourth and fifth columns present the mean and standard deviation after imputation. The central tendencies of the variables did not change appreciably as a result of the imputations. The standard deviations, however, did become much smaller following the imputations.

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[74] This regression model yields predicted values, and the imputation randomly selects a value on the basis of the distribution of predictions given values on the independent variables. Once one variable has had its missing values updated, it becomes an independent variable in the regression for the next variable with missing data. The algorithm iterates repeatedly through all of the variables, updating missing values for one variable at each step in the chain. As the sequence proceeds, imputations improve. This continues until convergence occurs, at which time the imputations demonstrate consistency from one iteration to the next.

To ensure that the chain was allowed sufficient time to reach convergence, a burn-in period of 500 iterations was run. During this period, regression models were used to predict the missing values on the basis of values on the other variables, with imputations taken at iteration t used to improve imputations at iteration $t + 1$. Following the completion of the burn-in period, convergence for each imputed variable was checked using trace plots.

Table 4: Univariate Summaries of Imputed Variables

	Pre-Imputation		Post-Imputation	
	Mean	SD	Mean	SD
RSG Visit (Lag)	0.2916	0.4547	0.2824	0.0132
IDPs Protected by UNHCR	0.2777	0.4481	0.2563	0.0143
Regional Density (Lag)	0.2119	0.2546	0.2068	0.0074
Europe-Central Asia	0.1923	0.3943	0.1914	0.0115
Latin America-Caribbean	0.1027	0.3037	0.1030	0.0089
Relative Size of IDP Crisis	0.0341	0.0673	0.0327	0.0019
IDP Estimates (Log)	12.2748	1.7120	11.7813	0.0672
Regime Induced Displacement	0.4372	0.4962	0.4524	0.0152
International War	0.2045	0.4036	0.1648	0.0117
Political Persecution	0.0305	0.1721	0.0487	0.0066
Peacekeeping Operations (Lag)	0.2174	0.4126	0.2129	0.0122
International Aid (Lag)	0.5168	0.8428	0.4409	0.0304
Embeddedeness in HR Regime	7.6211	3.4710	8.1809	0.1046
Democracy	9.3706	3.0317	9.3288	0.0888
Physical Integrity	3.0569	2.0247	3.0790	0.0657
Shaming Events	3.6284	6.9486	3.5940	0.2034
GDP per Capita (Log)	6.4314	1.1917	6.4350	0.0349
State Fragility Index	15.1161	5.2089	15.4976	0.1543
HR INGO Density	29.1162	16.3234	36.0245	0.7056

Results

Using the imputed data, survival analysis was conducted by incrementally building models to: (1) determine which variables appear to significantly increase the probability of commitment, and then (2) determine if these variables remain significant with the addition of controls. After exploring the full models, the proportional hazards assumption is tested and different functional forms are explored in the Diagnostics section.

Models

As a first step, a series of simple (bivariate) Cox survival models were run to determine which variables, or group of variables, appeared to have a significant effect on countries' commitment. The results are presented in Table 5, where each row represents a separate model that contains only the respective variable as the sole predictor.

Table 5: Results of Bivariate Analysis

	Coef	SE	HR	t	p
RSG Visit (Lag)	1.2084	0.4401	3.348	2.75	0.006
UNHCR Protection	1.8213	0.4694	6.180	3.88	0
Regional Density (Lag)	1.6450	0.9899	5.181	1.66	0.097
Europe-Central Asia	1.3818	0.4568	3.982	3.03	0.002
Latin America-Caribbean	0.4137	0.6255	1.512	0.66	0.508
Relative Size IDP Crisis	5.1145	1.9714	166.417	2.59	0.009
IDP Estimates (Log)	0.5768	0.1680	1.780	3.43	0.001
Regime Induced Dis.	0.5226	0.4446	1.686	1.18	0.24
International War	0.0831	0.5626	1.087	0.15	0.883
Political Persecution	-3.4361	3.9027	0.032	-0.88	0.379
Peace Keeping Ops (Lag)	0.7105	0.4788	2.035	1.48	0.138
International Aid (Lag)	-0.0805	0.3170	1.000	-0.25	0.8
Embeddedness in HR Regime	0.1377	0.0754	1.148	1.83	0.068
Democracy	-0.0316	0.0658	0.969	-0.48	0.631
Physical Integrity	-0.2225	0.1249	0.801	-1.78	0.075
Shaming Events	0.0066	0.0294	1.007	0.23	0.822
GDP per Capita (Log)	0.0132	0.1695	1.013	0.08	0.938
State Fragility Index	0.0109	0.0423	1.011	0.26	0.797
HR INGO Density	-0.0045	0.0166	0.996	-0.27	0.786

This first set of results shows significance for several of the variables relating to international normative pressure and region. When the country is visited by the RSG, the unadjusted likelihood of commitment at the next point in time is 3.348 times larger, which is easily significant (p = .006). Moreover, protection by UNHCR increases the unadjusted likelihood of adoption more than six fold. This estimate is also precise, yielding a p-value less than .001. The regional density of commitment does show a sizeable unadjusted effect on the hazard rate (HR = 5.181), but there is too much variability in the sample to be able to reject the null hypothesis that the true hazard ratio is 1 ($p = 0.097$). Not controlling for other factors, countries in Europe and Central Asia are almost four times more likely than countries in other regions to commit to the IDP regime (HR = 3.982, $p = .002$). The Latin America-Caribbean regional dummy, however, is not significant (HR = 1.512, $p = .508$).[75]

These initial results corroborate what the descriptive statistical analysis appeared to suggest; namely that international normative pressure and regional differences are critical factors in the diffusion of IDP norms. Further testing is warranted, however, to control for other factors. It is also interesting that while indicators for interaction with UN actors most concerned with internal displacement (e.g. UNHCR and the RSG) appear to be significantly correlated with a higher propensity to commit, indicators for transnational activism (the measure of human rights INGO density and a count of INGO shaming events) do not show significance. There are three possible explanations for this.

First, it is possible that different forms of international normative pressure vary in their effectiveness. Not all international norm entrepreneurs are the same after all. Countries may attribute a lot more weight for example to the actions and pronouncements

[75] We do not test for Middle East-North Africa and East Asia-Pacific dummies because there aren't enough observations in the dataset to report a hazard ratio.

of inter-governmental UN institutions such as UNHCR than to non-governmental entities such as Amnesty International Jesuit Refugee Services.

A second possibility is that the estimates for INGO variables are the result of missing data. There ism after all, a lot of data missing for the INGO density variable (close to 40%) that may have resulted in the generation of unrealistic imputed values.[76]

A third possibility is that significance exhibited by the UN indicators is really capturing a problem of selection. It is possible that countries that have a propensity to commit also have a propensity to invite the RSG and UNHCR to visit and set up operations to help them address the problem of displacement and that these UN entities don't really have an independent effect on commitment after all.

This study has sought to minimize the risk selection by lagging the independent variables and by including a number of controls. Given the limitations inherent in quantitative analysis and the imperfect nature of the data, it is not possible to completely discount the possibility that these results may exhibit selection bias. A qualitative examination of the processes and motivations that led countries to commit, however, can shed some light on this puzzle.

Of the remaining indicators, only two variables – both of which are related to the magnitude of the displacement crises – yielded p-values that are smaller than .05. Countries where the proportion of the population displaced is larger (Relative size of IDP crisis) have a higher likelihood of committing. The large hazard ratio on this variable is due to the measurement of the variable as a proportion rather than a percentage of the total population. Each percentage point increase would yield an increase of 66% in the hazard to commit (changing a percentage to a proportion, HR = .01*166 = 1.66).

[76] More specifically, the dataset generated by Murdie and Davis stopped at year 2004 which left a six-year gap in our dataset for all countries. Moreover, there was not any data for a number of countries in our sample (Yemen, Macedonia, Bosnia, Eritrea).

Additionally, the log of the estimated number of internally displaced persons significantly increases hazard rates. Each additional unit on the log scale of this variable increases the likelihood of adopting principles by 78% (p = .001). Quite surprisingly, none of the other variables turned out to have statistically significant effects on commitment. These included all factors relating to the cause of displacement, international instrumental pressure, state capacity, social mobilization, and cultural match. These indicators are tested again later in a full model.

After considering the simple models on Table 5, Table 6, combines all of the variables relating to international normative pressure and region in a single model. This should make it possible to determine the extent to which each of these variables contributes to a significant independent effect after controlling for the others.

Table 6: Result of Cox Analysis: Variables Indicative of International Normative Pressure

	Coef	SE	HR	t	p
RSG Visit (Lag)	0.577	0.498	1.781	1.16	0.247
IDPs Protected by UNHCR	1.825	0.616	6.202	2.96	0.003
Regional Density (Lag)	-4.439	2.297	0.012	-1.93	0.053
Europe-Central Asia	2.813	1.216	16.654	2.31	0.021
Latin America-Caribbean	3.181	1.296	24.07	2.45	0.014
HR INGO Density	0.003	0.021	1.003	0.16	0.872

In this model, the indicator for RSG visit declines substantially in size and loses its significance (HR = 1.781, p = 0.247). The UNHCR variable, however, changes very little and retains its significance (HR = 6.202, p = .003). Regional density is just short of significance (HR = .012, p = .053). Both regional dummies, however, are now shown to have a much larger and significant effect. Controlling for all other international normative pressure factors, countries in Europe and Central Asia were sixteen times (p = .021) more likely than countries anywhere else outside of Latin America to commit to the regime. Similarly, countries in Latin America and the Caribbean had a likelihood of adoption that was over 24 times higher than the rest of the world outside of Europe and Central Asia (p = .014). These results would suggest, once again, that that regional dynamic matter greatly.

The loss of significance for the RSG variable, however, is inconsistent with expectations. One possible reason for this may be that the explanatory power of this variable overlaps with other measures of normative pressure. A subsequent analysis, in fact, provides evidence that multicolinearity is indeed a plausible explanation for the change in significance.

Table 7 presents a full model all of the indicators of normative pressure previously tested, as well as other variables as controls. The results for the measures of normative pressure largely confirm what was observed in the previous table, while the controls remain – consistent with Table 5 – largely non-significant.

Table 7: Results of Full Cox Model, Including Controls

	Coef	SE	HR	t	p
RSG Visit (Lag)	0.62	0.59	1.587	1.04	0.298
UNHCR Protection	2.03	0.86	7.583	2.36	0.018
Regional Density (Lag)	-4.41	3.12	0.012	-1.41	0.158
Europe-Central Asia	6.08	2.11	435.024	2.88	0.004
Latin America-Caribbean	5.65	2.06	283.3	2.74	0.006
Relative Size of IDP Crisis	4.19	4.77	66.185	0.88	0.379
IDP Estimates (Log)	0.92	0.42	2.519	2.22	0.027
Regime Induced Dis.	-0.79	0.89	0.453	-0.89	0.374
International War	-1.33	1.31	0.263	-1.02	0.308
Political Persecution	-3.76	8.03	0.023	-0.47	0.64
Peacekeeping Ops (Lag)	-1.44	0.99	0.237	-1.46	0.145
International on Aid (Lag)	-0.20	0.45	0.815	-0.45	0.651
Embeddedness in HR Regime	0.25	0.14	1.278	1.78	0.075
Democracy	-0.43	0.25	0.652	-1.74	0.082
Physical Integrity	-0.48	0.28	0.62	-1.72	0.087
Shaming Events	-0.04	0.05	0.961	-0.8	0.421
GDP per Capita (Log)	-1.16	0.65	0.313	-1.79	0.073
State Fragility Index	0.08	0.14	1.079	0.54	0.59
HR INGO Density	-0.02	0.04	0.979	-0.56	0.576

The indicator for RSG visits has, after adjusting for the other variables, only a modest positive impact on the likelihood of adopting the UN Guiding Principles (HR = 1.587). This effect is again non-significant (p = .3). The indicator for UNHCR protection, however, is significant and powerful. UNHCR protections yield a near eight-fold increase in the likelihood of adoption (HR = 7.583, p = .014). After adjusting for all

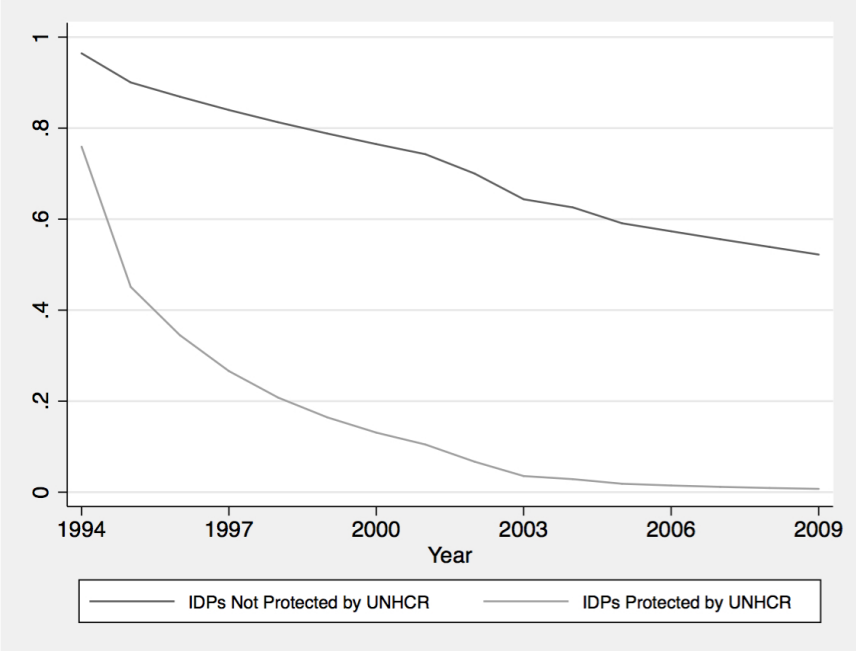
of the control variables, the effect of the regional dummies becomes even more pronounced. The dummy variables for Europe and Central Asia and Latin America and the Caribbean yield enormous hazard ratios, which reflect the fact that most countries in those regions eventually commit to the GP. To the extent there is any variation in these regions, the control variables can explain almost all of it. It is thus possible to say that regional dynamics appear to be a very powerful predictor of adoption after controlling for other factors.

Among the other factors, only the log of the estimated number of IDPs showed significance. The hazard rate increases 2.519 times for each unit increase in the log of the IDP estimates. None of the other variables yield estimates that are precise enough to reject the null hypothesis that the true hazard ratio equals one.

Survival functions

To obtain a more intuitive understanding of the effect size of UNHCR protection, Figure 18 plots the adjusted survivor functions for cases when UNHCR protections are in place and for cases when they are not. The survivor function was calculated using the full Cox model (presented in Table 7) holding all of the other variables at their means. The x axis plots time, whereas the y axis plots the probability that a country has not yet committed to the regime by instituting domestic legislation on displacement. Whereas both curves start out close to each, the probability that a country with UNHCR protections continues without committing to the Guiding Principles plunges rapidly. The probability also decreases for countries without UNHCR protections, but does so at a much slower rate. By the end of the time series, the probability that a non-UNHCR country has failed to commit is still above .5, while it has dropped nearly to zero for countries where UNHCR is present.

Figure 17: Adjusted Survivor Function by UNHCR Protections



This analysis cannot discount the possibility that UNHCR's effect is due mostly or in part to a question of selection. UNHCR's involvement in IDP protection and commitment to the regime may be both independent results of a country's more amorphous predisposition to address the internal displacement crisis. I attempt to control for selection by lagging the UNHCR variable and including a number of control variables in the full model. To eliminate the possibility of selection, ultimately UNHCR's effect has to be examined further through the use of qualitative methods.

Effect of RSG Visits

As noted previously, the lack of significance for the RSG variable is inconsistent with expectations that international IDP norm diffusion is driven by norm entrepreneurs. It is possible that this variable's lack of significance may be due to multicolinearity

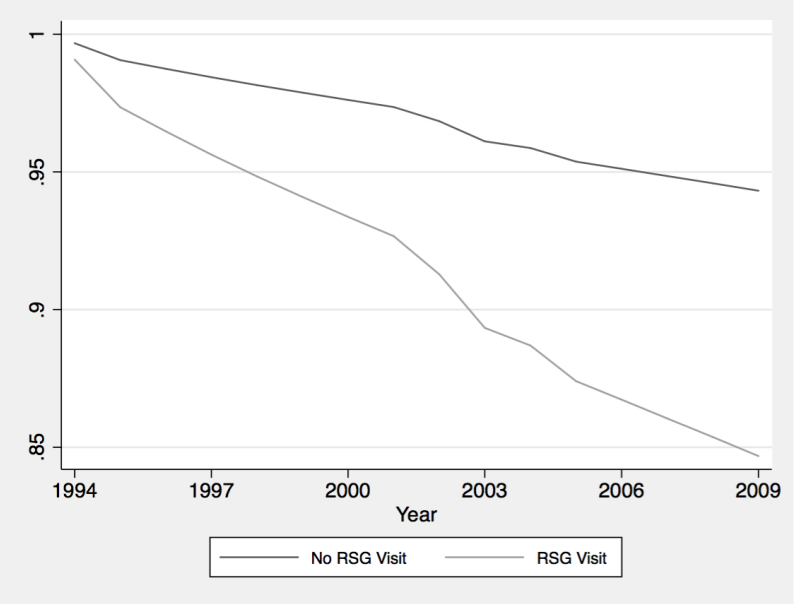
among the other independent variables. To test this hypothesis, an additional model is run, illustrated in Table 8, which drops the UNHCR variable along with the regional dummies and log of IDP estimates. The remaining controls are retained. This returns the RSG variable to significance, though the size of the hazard ratio is reduced somewhat relative to the bivariate model (Table 5 on p. 113) (HR = 2.906, p = .031). These results suggest that the previous lack of significance was due to the overlap RSG visits had with the other normative variables and not because its effect could be explained away by any of the controls.

Table 8: Results of Full Cox Model Including Controls (Dropping Some Variables)

	Coef	SE	HR	t	p
RSG Visit (Lag)	1.0668	0.4936	2.906	2.16	0.031
Relative Size of IDP Crisis	5.4750	3.1178	238.643	1.76	0.079
Regime Induced Dis.	0.0121	0.5914	1.012	0.02	0.984
International War	0.0241	1.1142	1.024	0.02	0.983
Political Persecution	-3.9482	6.6082	0.019	-0.6	0.55
Peacekeeping Ops. (Lag)	0.4062	0.6208	1.501	0.65	0.513
International on Aid (Lag)	-0.3974	0.3847	0.672	-1.03	0.302
Embeddedness in HR Regime	0.2141	0.1207	1.239	1.77	0.076
Democracy	-0.2840	0.1851	0.753	-1.53	0.125
Physical Integrity	-0.5148	0.2100	0.598	-2.45	0.015
Shaming Events	-0.0217	0.0400	0.979	-0.54	0.588
GDP per Capita (Log)	-0.1368	0.3913	0.872	-0.35	0.727
State Fragility Index	0.0603	0.1107	1.062	0.54	0.586
HR INGO Density	-0.0367	0.0285	0.964	-1.29	0.2

Figure 18 displays the adjusted survivor function on the basis of the model in Table 6 by RSG visit.

Figure 18: Adjusted Survival Function by RSG Visit



Appendix B details the diagnostic tests conducted on the Cox proportional hazard models employed in this analysis.

DISCUSSION

An initial large-n statistical study of commitment with the international regime to protect IDPs suggests several interesting findings. First of all, the data suggests that commitment matters. On average countries that institute domestic legislation to protect IDPs as proscribed by GP see a significant decrease in the magnitude of displacement. Although these results provide reasons to be cautiously optimistic about the effectiveness of these norms, due to the limitations inherent in this type of quantitative analysis, further research will be necessary to confirm that a general downward trend in displacement among committed countries is the result of the new norm and of other external factors.

This analysis has also shown that, during the period under review (1990-2010) commitment grew steadily covering an increasing proportion of IDPs. Commitment grew even among counties that theoretically should have been most disinclined to commit. This included counties where: (a) displacement crises were protracted; (b) where the state was primarily responsible for displacing its own population; and (c) where the war was still ongoing.

Descriptive analysis suggests that commitment with the regime historically diffused along regional clusters. Whereas countries in Europe/Central Asia and Latin America/Caribbean were the first to adopt international norms on displacement, countries in Middle East/North Africa and East Asia/Pacific have lagged behind. This may indicate that the norm has diffused largely along regional pathways. The more rigorous survival analysis further corroborated the idea that regional differences are the most important predictor of commitment. On the other hand, factors relating to structural domestic conditions, social mobilization, cultural match and opportunities for international instrumental pressure to commit failed to show significance.

The data also suggest that UNHCR's involvement in countries' internal displacement crises had a positive effect in (a) reducing the magnitude of displacement in host counties and (b) increasing the likelihood that that host countries would commit to the IDP regime by enacting domestic legislation. This is potentially an important finding because it may offer a quick policy solution to an important problem. The survival analysis showed that, controlling for other factors; involvement by important international norm entrepreneurs (UNHCR and the RSG), in countries with internal displacement significantly increases these countries propensity to commit to the regime. Although other international normative factors did not show significance this finding

suggests that commitment with the IDP regime has been principally driven by international normative pressure at the institutional level.

Although the large-n statistical analysis does not paint a very conclusive picture of what is driving commitment with the regime, the latter two findings appear to suggest that commitment may be driven by the actions of certain UN norm entrepreneurs and by regional norm dynamics above anything else. Given the limitations inherent in the data, it is also difficult to examine this correlation much further using quantitative methods. As is to be expected in a nascent and underexplored area such as internal displacement, many key indicators are not widely available and some of the proxy indicators used may be too imperfect or underspecified to explore the question of commitment much further.

This study however, does allow us to generate more refined questions about the processes and motivations of commitment that can be explored further though qualitative methods. How, for example, have international norms on internal displacement spread regionally? What are the agents, mechanisms, and motivations that have led some countries to commit? Who are the regional agents responsible for diffusing the GP? What role have the various regional intergovernmental bodies played in diffusing the Guiding Principles? What mechanisms have they employed and how effective have these been? Finally, what role have regional human rights activist networks and regional hegemons (or first adopters) played in spreading these norms to their neighbors?

Case studies may shed some light on how and when have institutions, such as UNHCR and the RSG, been able to influence policy. When, for example, have they been most successful? More importantly I would like to uncover whether their involvement really made a difference in leading host countries to adopt norms on internal displacement, as the survival analysis appears to suggest, or if countries that are more predisposed to commit also selected to host these institutions.

Case studies may also help to determine what domestic structures have facilitated the adoption of these norms and what domestic factors have hindered their adoption. Why have some states that are clearly responsible for displacing their own populations choose committing to a regime designed to protect IDPs? Are countries with displacement crises resulting from ethnic conflicts somehow less likely to commit?

Careful process tracing may also help uncover the mechanisms and motivations that led certain states to commit to non-binding norms. To what extent did governing elites implement legislation on internal displacement because they believed it was the right thing to do and to what extent did they believe it was in their interest to do so? To what extent were they motivated by mechanisms of mimicry, peer pressure, naming and shaming and argumentation from various normative actors motivated states to commit?

In order to answer these questions this study now will look at the sequence of events that led Colombia to commit to the IDP regime by enacting domestic legislation on internal displacement in accordance with the UN Guiding Principles.

Chapter 3: The Road to Rhetorical Commitment: Law 387

INTRODUCTION

Colombia is currently the country with the second largest IDP crisis in the world after Syria. As of 2015 it was estimated that between 4.9 and 5.7 million Colombians have been displaced by violence and human rights abuses since 1985. This number surpassed by a wide margin the magnitude of the next largest displacement crises in the world: Nigeria (3.3 million), Iraq (3.3 million), Sudan (3.1 million), the DRC (2.7 million), and Somalia (1.1 million).[77] The internally displaced population corresponds to over 10% of Colombia's population and over 30% of the rural population.

Propelled by four decades of a complex multi-party conflict between the armed forces, illegal armed groups – most notably the Revolutionary Armed Forces of Colombia (FARC) and drug cartels – the IDP situation in Colombia is arguably the most persistent humanitarian crisis in Western Hemisphere. Moreover, the intensification of the internal conflict and its expansion into the majority of the territory since the 1980s caused the numbers of displaced to grow at an alarming rate during the past decades.

At the same time, Colombia is perhaps the country with the most advanced institutional responses to the problem of internal displacement and is often hailed internationally as an example to follow. Colombia was also one of the first countries in the world to commit to the IDP regime by instituting legislation to address internal displacement. Despite their precarious situation, IDPs in Colombia have better legal protections and receive a higher level of attention from government authorities than most IDPs around the world. Colombia, at least on paper, has one of the world's most

[77] See: IDMC Global Figures (http://www.internal-displacement.org/global-figures). Last visited on April 2015. The figure for Sudan does not include S. Sudan.

developed legal and institutional frameworks to protect the rights of IDPs. Over the last twenty years this framework has been improving and Colombia has deepened its commitment with the international IDP regime despite the fact that Colombia has remained at war and its displaced population has continued to grow.

In 1992 Colombia became one of the first countries in the world to acknowledge the phenomenon of internal displacement and to recognize the states' responsibility to address the crisis in accordance with international norms. In 1997 Colombia instituted one of the first and most comprehensive legal frameworks to address their displacement crisis in the world – anticipating by a full year the introduction of the *UN Guiding Principles on Internal Displacement*. A groundbreaking ruling by Colombia's Constitutional Court in 2004 made this soft law instrument legally binding at the level of constitutional law. Over the years, thanks in part to the involvement of the Constitutional Court, Colombia's legal and institutional framework to address displacement has become perhaps the most highly developed in the world. Not surprisingly Colombia's legislation and jurisprudence relating to internal displacement has often been hailed by international refugee advocates as a model to be emulated by other countries with IDPs (Ferris et al., 2011). Even though Colombia's framework to protect IDPs has not always been properly implemented, according to Elizabeth Ferris of the Brookings' Project on Internal Displacement: "Colombia stands out because of its commitment to finding solutions."[78]

In 2011 Colombia took a significant step further when President Juan Manuel Santos signed into law an ambitious and complex piece of legislation known as the Victims' and Land Restitution Law ("*Ley de Víctimas y Restitución de Tierras*," or *Law*

[78] Elizabeth Ferris. "International Perspectives on Solutions to Internal Displacement." Speech given at the *Conference on Durable Solutions for the Displaced Population: International and National Experiences*, in Bogotá, Colombia May 28-29, 2013. See: http://www.brookings.edu/research/speeches/2013/05/28-colombia-displacement-idps-ferris.

1448) to address the principal grievances of Colombia's IDPs. This law, which became the centerpiece of Santos' first administration, aimed to return over 16 million acres of stolen or abandoned land and provide reparations to over 4 million victims of human rights violations – the vast majority of whom are IDPs.[79] The scope and reach of this law were in many ways unprecedented. The law is projected to cost over $26 billion and to take over a decade to fully implement.

Human Rights Watch, a major human rights INGO based in Washington, referred to this law as a historic step in "addressing the legacy of violence and abuse that has affected millions of citizens."[80] This legislation was particularly significant because Colombia continues to be at war and has yet to sign a peace agreement with the FARC. Although some parts of the law face legal challenges and many observers, even within the Santos administration, recognize that its implementation will be difficult, the law has been hailed internationally.

What then explains Colombia's high level of commitment and compliance with the international IDP regime? Why did the country begin complying with international norms on internal displacement early on when many other countries lagged behind? So far these questions have not really been addressed in a comprehensive way.

Colombian and international experts suggest that there are a number of structural factors that set Colombia apart from most countries suffering from internal displacement.[81] First, unlike most countries with internal conflicts, Colombia has been

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[79] See: *Colombia Reports*. "Santos Signs Victims Law into Regulatory Decree." December 20, 2011. (http://colombiareports.co/santos-signs-victims-law/)

[80] See: Human Rights Watch. "Colombia: Victims Law a Historic Opportunity." June 10, 2011. (http://www.hrw.org/news/2011/06/10/colombia-victims-law-historic-opportunity)

[81] Telephone interview with Professor Robert Goldman (former Chairman of the IACHR). April 18, 2012. Telephone interview with Sebastian Albuja (IDMC, Americas Country Analyst). May 22, 2012. Interview with Roberta Cohen (Brookings- PID). March 28, 2013. Washington, DC.

able to maintain a relatively strong democratic tradition and a very independent judiciary. Colombia has benefited from a comparatively vibrant civil society with a free press and well established civic, academic and political institutions. Moreover, the conflict in Colombia, unlike those of most countries, is not drawn along ethnic lines, which presumably makes it more likely that the government will assume responsibility for IDPs rather than to treat them as outsiders. Colombia has also historically been very sensitive to international criticism. In the experience of several OAS and UN officials interviewed, Colombia, more than most countries, wants to be perceived as a law-abiding member of the international community and is very sensitive to international criticism. As a result Colombia has taken the pronouncements of international bodies and human rights monitoring groups very seriously. When Colombia is accused of violating or failing to implement international norms, the government can be counted on to prepare a sophisticated and serious response in international forums. However, because Colombia's reality often fails to match the lofty pronouncements and the sophisticated image it projects internationally, many refer to Colombia as a "schizophrenic state" (Girlado, 1999).

Although many of these factors may have contributed to explaining Colombia's level of commitment, they do not really explain why Colombia only began instituting IDP protections when it did. After all, internal displacement has been a reality in Colombia for much of the country's history and until relatively recently Colombia's human rights record was arguably dismal.[82] Moreover, the large-n statistical study in the previous chapter demonstrated that many of the factors that allegedly set Colombia apart

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[82] Telephone interview with Joel Charny (InterAction, Vice President for Humanitarian Policy & Practice). April 4, 2012.

– particularly its level of development, democracy, and civil society – in general are not very good predictors of commitment. In order to better understand what drove Colombia's commitment with the international IDP regime, this study now takes a closer look at the history of the development of Colombia's legal and institutional framework to address displacement.

This study finds that Colombia's increasing commitment and compliance with the international IDP regime was the result of the interaction between three factors: (1) domestic social mobilization, (2) linkages to transnational – particularly regional— activist networks, and (3) instrumental pressure from abroad, exercised mostly by a US that was increasingly entangled in Colombia's conflict. This story is marked by processes of organization, legitimation and formation of domestic human rights groups who gradually learned how best to employ domestic and international levers of influence and to frame more effectively Colombia's crisis and by a process of socialization whereby Colombia's governing elites become increasingly sensitized to the international human rights discourse.

Regional factors played a key role – and were possibly more influential than international factors – in the development of Colombia's commitment to the IDP regime. Latin America's robust human rights regime administered by the Inter-American Court and Commission, the 1984 Cartagena Refugee Convention, and a myriad of powerful human rights organizations and lobbying groups that came of age in the 1980s as a result of the military dictatorships in the Southern Cone and the civil wars in Central America, exercised a formidable influence on Colombia's policy. The wars and subsequent peace processes in Central America were of particular importance. Among other things they provided lessons for activists, examples for policymakers and in other ways a lens through which the international community interpreted the conflict in Colombia. It also

spawned a number of regional human rights organizations with significant experience with displacement that became very influential in Colombia.

After providing a brief overview of Colombia's conflict and displacement crisis the next three chapters will trace the developments that led to the three most important policy commitments to the IDP regime: Colombia's 1997 Law on Internal Displacement (Law 387), the Constitutional Court's historic sentence T-025 which declared the existence of an "unconstitutional state of affairs," and Colombia's 2011 Victims' Reparation and Land Restitution Law (Law 1448). In the process, I will seek to identify the factors that affected policy-makers' decision to commit to the international IDP regime and to outline how these interacted in making Colombia into such a model case. Colombia's conflict and ensuing displacement crisis are indeed very complex. There are many actors involved and many factors. Tracing exactly how policies came into being can shed some light on what factors drive a country to comply with the UN Guiding Principles.

CAUSES OF DISPLACEMENT

Both internal displacement and armed conflict have been a constant reality for most of Colombia's modern history. Although Colombia claims to be one of the oldest continuous democracies in the hemisphere, since independence, elections have been accompanied by troubled political life and violence. At the root of Colombia's problems lie the enormous disparities in land and wealth distribution, a lack of government legitimacy, the ineffectiveness of established intuitions, a traditionally oligarchic political and social system based on clientelism, the state's use of terror, a breakdown of social relations, the inaccessibility of power for the majority of Colombians, the absence of the

state in many regions of the country and a highly militarized society (Obregón & Stavropolou, 1998).

Colombia's precarious situation deteriorated significantly and the levels of violence became more brutal during the last two decades of the 20th century with the development of an illicit drug industry that permeated all sectors of Colombian society and turned the country into the world's principle cocaine supplier. A seminal study commissioned by the government in the 1980s noted that violence in Colombia, "empowered by its own dynamic and creating its own reality" had become in some way "institutionalized" as a mechanism for solving problems.[83] By the 1990s, homicide and kidnapping rates skyrocketed making Colombia one of the most dangerous places on earth.[84] Yet, despite its endemic violence and displacement crisis Colombia paradoxically has been able to maintain a minimum level of electoral and institutional stability and even experienced robust economic growth. This can be partly explained by the fact that the worst of the conflict has been confined to rural areas, which are home to only a third of Colombia's population.

Land, and the fight to control land have historically been central to Colombia's conflict and displacement crisis. The first zones of conflict and displacement were also the early "frontier zones, " or "zones of colonization;" that is they were remote areas of relatively new agricultural land (Weiss Fagan, Fernandez Juan, Stepputat, & Vidal

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[83] Comisión de Estudio Sobre la Violencia, Colombia, Violencia y Democracia: Informe Presentado al Ministerio de Gobierno (Bogotá: Universidad Nacional de Colombia, 1987). Violence has generated its own field of study in Colombia commonly known as "*violentologia*." Other notable studies include: Paul Orquist's Violence and Conflict in Colombia (New York: Academic Press, 1980) Germán Guzmán, Orlando Fals Borda, and Eduardo Umaña Luna's La Violencia en Colombia: Estudio de un Proceso Social (Bogotá: Ediciones Tercer Mundo, 1962); Gonzalo Sánchez and Ricardo Peñaranda, eds., Padado y Presente de la Violencia en Colombia (Bogota: CEREC, 1991); Marco Palacios, Entre la Legitimidad y la Violencia: Colombia 1987-1994 (Bogotá: Grupo Editorial Norma, 1995).

[84] Of the 26,142 murders reported in 1996, 3,173 (13%) were politically motivated. These included combat-related deaths, murder of civilians by organized armed actors, "social cleansing" killings (the murder of prostitutes, homeless people, drug addicts, and beggars) and selective murders of political adversaries by security forces and paramilitaries (Obregón & Stavropoulou, 1998, p. 402).

Lopez, 2006). Colombia's celebrated sociologist Alfredo Molano has described violence, the fight over land and displacement as mutually determining historic phenomena (Molano, 2007).

During the 19th Century, Colombia underwent at least a dozen national civil wars and fifty local uprisings against the central or regional governments (Pardo, 2004). These were unusually confrontations between Colombia's two political parties (the Liberals and Conservatives) that maintained hegemony over the country's political life for most of Colombian history while excluding all alternative social movements.

From 1890 until 1930 the Conservative party ruled the country singlehandedly. In 1930 the Liberal party began to win consecutive elections but lost power to the Conservatives when it presented a divided ticket between Gabriel Turbay, the Liberal establishment candidate, and Jorge Eliecer Gaitán, a charismatic populist candidate who appealed to Colombia's growing urban middle class. The assassination of Gaitán in 1948 led to massive violent demonstrations in Bogotá (known as the *Bogotazo*) that quickly spread to the rest of the country, prompted a strong response from the conservative administration of Lauriano Gomez and immersed the country in a bloody ten-year-long civil war.

It is estimated that during this period, known in Colombia as *La Violencia* (1948-1965), more than 300,000 civilians (mostly poor peasants) were killed and more than 2 million people were displaced (Obregón & Stavropolou, 1998). Most of these forced migrants fled to the cities to escape the bloodbath. Entire regions of the country were de-populated only to be repopulated by peasant farmers loyal to the Conservative government. Small landowners were expelled from some of the best lands of the country so that large agribusinesses with links to international markets (cattle ranches, sugar and banana plantations) could be established (Molano, 2007). Many migrated to new areas of

colonization – the largely uninhabited parts of the country like the jungles of the Magdalena Medio, Urabá, the Eastern Planes, and the Amazon region (Vargas Castaño, 1993) which later became the hotbeds of a Liberal and Communist armed insurgency.

Table 9: Phase I: Timeline of Events

Year	Event
1948-58	A wave of violence between Liberals and Conservatives known as *La Violencia* results the death of 300,000 and the displacement of two million Colombians
1966	Guerilla group FARC is formally organized
1980s	Intensification of the conflict in Colombia. Approximately 3,000 people killed or disappeared every year
1984	*Cartagena Declaration on Refugees*, a regional non-binding agreement signed by a group of Latin American countries. It broadens the definition of refugees to include IDPs and expresses a regional responsibility for their protection
1990	First attempt to create a national IDP organization (CONADHES) fails
1990	Cesar Gaviria Trujillo elected president of Colombia
1991	New Colombian Constitution enacted. Sets in place strong provisions for recognition of international human rights law as well as number of legal procedures and institutions for the protection of human rights
	The Inter-American Human Rights Institute (IIDH) visits Colombia. First National Seminary on internal displacement organized in Colombia (Chinauta). The conference succeeds in bringing together for the first time, Colombian activists, humanitarians, and academics working with IDPs.
1992	CPDIA is created in San Jose, Costa Rica to serve as a regional clearinghouse of information on IDPs, provide technical assistance, and advocate for the human rights of IDPs in the region. That same year, CPDIA conducts first visit to Colombia
	CODHES is formed. The following year publishes *Displacement: Human Rights and Armed Conflict*
	President Gaviria officially recognizes the problem of displacement though *Presidential Decree 281* which sets up a $1.5 million emergency fund to aid victims of violence
1993	After a visit to Colombia, IACHR issues special report expressing "grave concern with the rise of violence and human rights violations and calling on Colombia to adopt *Protocol II of the Geneva Convention* concerning victims of internal armed conflicts

Table 9: Phase I: Timeline of Events (Continued)

Year	Event
1994	Ernesto Samper Pizano elected President of Colombia
	The Displacement Support Group (GAD) an IDP umbrella organization is created in Colombia with the encouragement of international INGOs. GAD soon becomes the principal intermediary between Colombian NGOs and international human rights network of activists and donors
	IACHR for the first time lists Colombia under Chapter #4 of its annual report that catalogues the hemisphere's most precarious situations
	The RSG, Francis Deng, conducts first visit to Colombia. During this visit the Colombian government initiates formal discussions with representatives of Colombian civil society, IDP organizations, and branches of the state to develop an integral public policy to address displacement. Colombian NGOs use the occasion to call for the appointment of a Special UN Rapporteur for Colombia
	During a speech commemorating Colombia's Human Rights Day Celebration President Samper formally recognizes the problem of internal displacement and the state's responsibility to address it
1995	Catholic Church in Colombia publishes seminal study: *Human Rights: Persons Displaced by Violence in Colombia* – the first authoritative of Colombia's displacement crisis at the national level. The study estimates that close to 2% of the country's population had been displaced by violence between 1985 and 1995
	The Colombian Government issues a first draft of a National Program for the Attention of the Population Displaced by Violence (CONPES 2804) that takes into account the findings of the Catholic Church, CPEDIA, and the RSG's recommendations
	Colombia adopts *Protocol II of the Geneva Convention*
1996	(March) US Department of State decertifies Colombia and cancels Samper's visa over concerns that his campaign accepted funds from the Cali Cartel
1997	Second policy planning draft (CONPES 2924) is issued correcting some of the structural problems of the prior policy planning draft (CONPES 2804).
	UNHCR invited to set up a presence in Colombia to assist IDPs
	(July) Law 387 adopting measures for the protection of IDPs displaced by violence is signed into law by President Samper

While *La Violencia* officially ended with a power sharing agreement between the two elite parties (known as the *National Front*) the conflict eventually morphed into a low intensity insurgency war in the countryside that has continued into the 21st century making it one of the oldest insurgencies in the world. The principal insurgent group, The Revolutionary Armed Forces of Colombia (better known by its Spanish acronym FARC) had its genesis as a Liberal peasant self-defense group during *La Violencia*. Inspired by the success of the Cuban revolution and fed by popular frustration with a political establishment that had failed to address gross inequality, this Marxist guerilla group gained a permanent presence in the countryside. In fact, in some areas of colonization where the state was mostly absent, groups like the FARC often acted as the de facto state (Citurna.tv, 1989). Soon the FARC were joined by a number of other guerilla groups (ie. ELN, M-19, EPL, Quintin Lame) that were led by middle-class intellectuals and political leaders often supported by Cuba.

During the 1970s and 1980s Colombia's Marxist insurgency degenerated into a "dirty war" in which some elements of the state, guided by a national security doctrine, aided by paramilitary organizations, and funded by wealthy land-owners waged a clandestine war against intellectuals, labor unions, peasant leaders, social activists and anyone suspected of sympathizing with the guerillas. Although several attempts were made during the Betancour (1982-1986), Barco (1986-1990), Gaviria (1990-1994), Samper (1994-1998), and Pastrana (1998-2002) administrations to bring an end to the conflict by negotiating with the guerillas, the lack of a permanent national commitment to peace and the opposition of the elites and the military condemned these efforts to failure (Obregón & Stavropolou, 1998).

As drug trafficking permeated the political and economic life of the country, during the 1980s and 1990s, the process of democratization and violence became much

more entangled. Motivated by a need to protect their economic interests and tired of being harassed by the guerillas, drug traffickers soon began to exert their influence in politics and other areas. During the 1980s drug traffickers became some of the country's largest landholders and began to train, finance and arm the existing paramilitary (civilian self-defense) groups. As these drug mafias concentrated their power, Colombia's governing institutions also became increasingly more weak and corrupted and the country became engulfed in a second cycle of intense violence reminiscent of *La Violencia*. The institutional crisis reached its climax when the Medellin cartel declared an all-out war on the state during in the late 1980s, when Colombia was negotiating an extradition treaty with the United States. As part of this war the cartel assassinated the country's attorney general as well as four presidential candidates, and launched an extermination campaign of a leftist political party (an offshoot of the FARC) resulting in the deaths of more than 500 of its members.[85] During the latter half of the 1980s approximately 3,000 people a year disappeared or were murdered for presumed political reasons. This represented more people killed in Colombia every year for political reasons than during the entire period of the infamous Pinochet dictatorship in Chile (ICVA, 1991).

Despite evidence that masses of people had been forced to migrate because of violence in many regions of the country since the 1950s, internal displacement was not recognized as issue of concern in Colombia until the 1980s. During *La Violencia*, it is estimated that about 2 million peasants were displaced (Kirk, 1993). As evidence of their existence there emerged in Bogotá an organization known as "Association of Refugees from Boyacá" (a neighboring department) which provided economic and legal assistance to persecuted liberal peasants (Vargas Castaño, 1993). During the 1960s and

[85] See Dudley, Steven. Walking Ghosts: Murder and Guerilla Politics in Colombia. New York: Routledge (2004).

1970s some reference was also made to *migrantes forzosos* ("forced migrants") within the policy and conceptual framework of "urban poverty." Conceptually, however, these refugees were amalgamated together with the large numbers of people that migrated to the cities for economic reasons under the umbrella or poor migrants, and the emphasis was placed on incorporating them into modern society rather than addressing their specific needs or their rights as victims (Segura Escobar, 2000).

Because the number of forced migrants was relatively low compared to the massive inflow of economic migrants, and because those escaping violence and persecution preferred to remain anonymous, it is not surprising that their plight was largely ignored. Colombia, after all, had one of the highest urbanization rates of any Latin American nation during the 20th century (Cardona Gutiérrez, 1971). Between 1938 and 1973 the proportion of the population living in urban areas increased from 31 percent to nearly 60 percent with the rate of urbanization averaging 5.5 percent per year between 1951 and 1964.[86]

This, however, changed during the late 1980s and early 1990s when the conflict in Colombia intensified and expanded to other territories causing the rate of displacement to accelerate dramatically and making IDPs a lot more visible. Between 1995 and 1996, the number of IDPs in Colombia nearly doubled (Weiss Fagan et al., 2006). More than a million people were displaced between 1985 and 1998 (Cohen & Deng, 1998a). At the beginning of the 1980s, Colombia's conflict spread to a large number of regions, including urban areas. The conflict began to involve a larger number and a wider range of actors and to employ a greater volume of economic and technological resources.

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[86] See: Federal Research Division of the Library of Congress. See *Country Studies: Colombia* (http://countrystudies.us/colombia/36.htm).

Consequently, war in Colombia resulted in increasingly higher levels of destruction and degradation (Segura Escobar, 2000).

This increase in the levels and complexity of the violence coincides with a conscious change in the strategy by the armed actors and their use of displacement, for the first time, as a tool of war. During the 1980s the FARC adopted a new war strategy of geographic expansion, beyond their traditional strongholds and into more economically dynamic regions of the country in search of greater sources of funding to include not only cocaine and kidnapping but also other sources of wealth they could extort (Segura Escobar, 2000). Expanding guerrilla activity and narcotics trafficking in the 1990s also led to the expansion and strengthening of paramilitary (or self-denominated "self-defense" groups) that had originally been organized by large landowners to protect themselves from the guerillas. Although there were few direct armed confrontations between guerrillas and paramilitaries they both began to engage in strategies aimed to undermining their enemy's social base –known since Vietnam as "taking the water away from the fish" – by killing and displacing civilians they suspected of sympathizing or aiding the other side. This logic of war turned everyone residing in conflict zones into potential military targets and resulted in the displacement of entire communities.

Paramilitaries were initially responsible for most of the displacement during the 1980s and early 1990s. However, towards the end of the 1990s guerrillas also provoked large expulsions of people by attacking small and medium-sized municipalities. Displacement was also fueled by both parties' increased forced recruitment of children, the proliferation of anti-personnel mines in the countryside, and by an increasingly aggressive government response – later funded by *Plan Colombia* – which included

indiscriminate bombings and the destruction of crops by the spraying of poisonous defoliants to eradicate illegal plantations (Segura Escobar, 2000).

Over half a century of a protracted low intensity conflict gradually transformed Colombia into the country with the largest number of IDPs by 2014. Although the country's displacement crisis shared many of the characteristics of most IDP crises around the globe, the patterns and rate of displacement have made Colombia's case somewhat unique. The following section offers a brief overview of the current crisis.

OVERVIEW OF IDP CRISIS

Unlike many displacement crises in the world, forced displacement in Colombia is not primarily caused by confrontations between armed groups. Assassinations, intimidation and personal threats are the principal reasons given by IDPs for fleeing their homes. Until the 2000s, when the Colombian government, with the help of foreign assistance, conducted a military offensive against insurgents, confrontations between the different warring parties were rare. Instead, guerillas and paramilitaries tended to settle scores by attacking civilians they suspected of supporting the other side. Many observers agree that displacement in Colombia has been a deliberate strategy of war used to establish control over strategic territories, to expand the cultivation of illicit crops and to take procession of lands and private property (Global IDP Project, 2002). In fact, early studies estimated that 70% of IDPs had in one way or another lost land. This is a phenomenon further aggravated by the fact that IDPs, for the most part, lack land titles or any supporting documentation necessary to reclaim their lands (Global IDP Project, 2002; Ibáñez & Vélez, 2008).

As of March 2013, the Internal Displacement Monitoring Center (IDMC) in Geneva estimated that Colombia had between 4.9 and 5.5 million IDPs (IDMC, 2013).[87] In 2012 alone there were 230,000 newly displaced people. The majority of Colombia's IDPs have been displaced from rural areas to urban centers. However, during the past few years there has also been an increase in intra-urban displacement. In 2012 alone more than 8,800 people were forced to flee from one city to another as a result of violence and human rights abuses (IDMC, 2013).

As is commonly the case in internal displacement crises, women and people under the age of 25 account for most of the IDP population. Women (often widows and single mothers) and their children account for almost 60% of the displaced (Obregón & Stavropolou, 1998). Ethnic minority groups, including indigenous and Afro-Colombian people are also disproportionally represented within this population. The men who flee alone or with their nuclear families are characteristically leaders of political movements, members of teachers' and peasants' unions and government officials such as judges and attorneys (Conferencia Episcopal de Colombia, 1995; Obregón & Stavropolou, 1998).

More than 80% of the displaced relocate in urban areas. Only 9% remain in rural zones. The cities that receive most of the displaced include Bogotá, Medellin, Cali, Barranquilla, and Cartagena (Obregón & Stavropolou, 1998). Most IDPs live amongst the urban poor, and after receiving initial support, do their best to cope with very little assistance from the government, the church and international agencies. It is estimated that 94% of Colombia's IDPs live below the poverty line and that 77 % live in extreme poverty (IDMC, 2013).

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[87] As of December 2012 the official government registry included 4.9 million IDPs. Because this number is cumulative it does not account for the possibility that some IDPs may have returned to their place of origin. This registry, however, does not include people displaced by criminal armed groups know as BACRIM that emerged after the demobilization of paramilitary organizations.

Unlike most displacement crises around the globe internal displacement in Colombia has mostly consisted of a gradual and slow exodus of individuals and families – often characterized as "drop by drop" ("gota a gota"). There have been some instances of collective displacement (27% of cases between 1996 and 2012) as a result of intense combat between insurgents and the military, but these tend to be rare (Centro Nacional de Memoria Historica, 2013). Typically, individual displacement occurs when the head of the family is threatened and is forced to leave immediately and the rest of the family usually follows (Obregón & Stavropolou, 1998).

Displacement, like the conflict itself, has affected most of the Colombian territory. By 2013, 1,116 of Colombia's municipalities (97% of the national territory) had experienced some type of displacement.[88] Over the years, the zones of expulsion expanded from the traditional strongholds of the guerillas and paramilitaries (i.e. Magdalena Medio, and Urabá) to new areas into which armed groups and narcotics traffickers have expanded in the past few decades. The zones of expulsion have traditionally been characterized by little or no access to channels of political participation, persecution of social or political dissidents, criminalization of popular protest, discrimination against indigenous or Afro-Colombian communities, armed conflict, drug cultivation or trafficking, lack of basic public services, and enormous disparities in wealth (Obregón & Stavropolou, 1998). The most affected zones include: Los Llanos, Urabá, Magdalena Medio, Norte de Santander, Chocó and Valle del Cauca.

[88] These municipalities, of course, have been affected to different extents. According to the Historical Memory Group, in the most critical cases 139 municipalities registered more than 10,000 IDP between 1996 and 2012, accounting for 74% of the total displaced population. Among these, 57 registered more then 20,000, 26 more than 30,000, 12 more than 40,000 and 9 more than 50,000 IDPs (Centro Nacional de Memoria Historica, 2013).

Figure 19: Geographic Distribution of Internal Displacement in Colombia (2010)

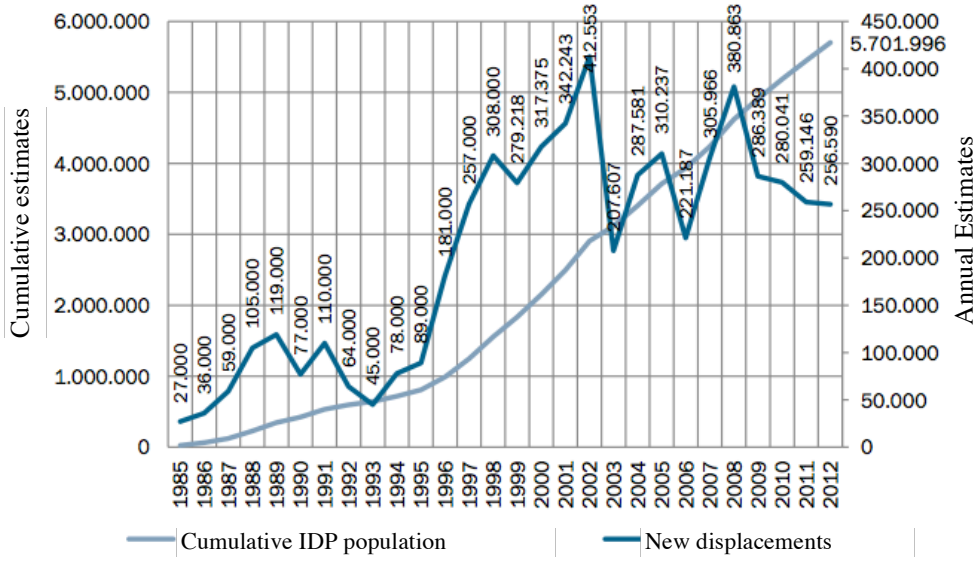
Source: IDMC Internal Displacement: Global Overview of Trends and Developments in 2010

Living conditions for IDPs are extremely poor and dangerous, particularly in urban slums where they tend to resettle. Given the circumstances in which displacement occurs, people rarely have the time to make the proper provisions to flee and are forced to find the most basic shelter in dilapidated structures or makeshift constructions. For the most part they lack access to clean water and sanitation. Although the situation has been gradually improving in terms of access to health care and education (as of 2010 roughly 80% of IDP children attended school and 90% of IDPs were registered in a subsidized health system) only a small minority of IDPs have access to emergency humanitarian support and about half of all IDPs do not enjoy food security. Also, because they lack

access to sustainable livelihoods IDPs tend to be significantly poorer than the general population. Female-headed households were particularly vulnerable; since 60% of them work in the informal labor market and 20% in domestic service, with comparatively lower pay and longer hours. In the case of Afro-Colombian women, only 5% earned the minimal salary (IDMC, 2010).

According to CODHES, Colombia's leading IDP NGO that has been tracking displacement since 1985, Colombia has seen a steady yearly growth in the IDP population. The greatest wave of internal displacement took place at the height of the armed conflict between 1996 and 2002 (Centro Nacional de Memoria Historica, 2013). In 2002 alone there were an estimated 412,553 new cases of displacement. Since 2003 the number of newly displaced has fluctuated between 207,000 and 380,000 (CODHES, 2012).

Figure 20: Internal Displacement in Colombia: Historical Figures



Source: CODHES Documemento # 26: La Crisis Humanitaria en Colombia Persistente

Despite the precarious situation of IDPs in Colombia and the fact that the number of IDPs has continued to grow because of conflict, Colombian IDPs benefited from some of the earliest and most comprehensive laws on internal displacement. Law 387 (*By means of which measures are adopted for the prevention of forced displacement, and for assistance, protection, socioeconomic consolidation and stabilization of persons internally displaced by violence in the Republic of Colombia)* instituted in July of 1997, predated by one year, and in many ways anticipated the *UN Guiding Principles on Internal Displacement*. The law is also one of the most comprehensive pieces of legislation ever drafted to address displacement. In many ways Law 387 signaled Colombia's commitment to the emerging IDP regime. The remainder of this chapter describes the sequence of events that led the Colombian government to institute this law.

THE ROAD TO 387

Internal displacement was first articulated as a problem in political discourse in the late 1980s when news outlets began reporting the arrival of large numbers of people into Colombia's major cities and municipal capitals. The displacement of entire communities was accompanied by IDPs' demands for humanitarian attention from national and local authorities. As they increased in numbers IDPs also began to organize public demonstrations and, in some cases, the occupation of parks, plazas, schools and other public spaces (Osorio Péres, 2001).

SOCIAL MOBILIZATION

A number of local self-help organizations also began to sprout up among the displaced communities in the departments of Meta, Córdoba, Antioquia and the Colombian North East to help IDPs meet their basic needs, to develop preventive measures against further displacement and, in some cases, to facilitate organized returns and the recuperation of lost lands. Many of these organizations had their roots in existing civic committees and peasant organizations. Until 1997, however, these groups were few and isolated. The most vocal IDP organizations were tightly linked with left-wing militants that saw in displacement an opportunity to confront the state. For the most part these organizations faced severe difficulties (Osorio Péres, 2001).

Because most of the displaced preferred to remain anonymous for fear of inviting political persecution, IDP organizations had trouble attracting new members and consequently never gained much national visibility. Even by Colombian standards, where affiliation to INGOs is comparatively low, IDP organizations were viewed with suspicion by refugees already scarred by the distrust and rejection they had experienced in their

places of arrival. Most of them preferred to reach out to local parishes for solidarity or sought personal and family support (Segura Escobar, 2000).

Like most Colombian human rights NGOs, IDP associations also became the targets of violence and threats by paramilitaries who suspected them of sympathizing with the guerillas. Attendance at the 1990 annual convention of ASCONDAS (Colombian Association of Social Assistance), perhaps Colombia's oldest and largest IDP organization, was reduced by half after the assassination of one of its leaders (ICVA, 1991). These associations were isolated, highly politicized and poorly coordinated. Although they had made some attempts to articulate the problem at the regional level, until the mid-1990s they had been unable to estimate the magnitude of displacement in Colombia or, even less, to generate a national strategy.

A first effort to organize nationally was made in 1989 during the "First Congress of Victims of the Dirty War" which was organized by a left-wing peasant organization ANUC.[89] Although Colombian NGOs recognized at the time that masses of peasants were increasingly abandoning their lands because of violence, and that this had the makings of a national crisis they did not articulate the problem as one of "internal displacement" (Osorio Péres, 1993).[90] IDPs instead were grouped along with other victims of what they referred to as the "dirty war" – a term widely used in the hemisphere in reference to state repression by authoritarian regimes. The phenomenon of forced migration in Colombia was framed more as an outcome of a political and social struggle than as a humanitarian problem.[91] Following the Congress an effort was made to create

[89] ANUC (Asociación Nacional de Usuarios Campesinos).

[90] As the war intensified IDP groups created alliances with some NGOs (i.e. Colombian Asociation of Social Assistance – ASCODAS – and the National Association of Solidarity Aid – ANDAS in 1991). According to Ozorio, it is interesting that the term "displaced" did not appear in any of these organization's names. (Ozorio, 2001)

[91] Interview with Juan Manuel Bustillo. Bogotá. April 22, 2013.

an umbrella organization to represent internal refugees and other victims of human rights violations (CONADHEGS). This initiative, however, never really took off as the organization remained highly threatened and marginalized. This, of course, was not unusual. The work of the few Bogotá-based human rights groups that supported regional IDP organizations was notoriously difficult and dangerous. This was particularly the case when it came to documenting the links between the military and paramilitary groups. Following an investigation into paramilitaries in Chucurí, for example, the human rights group *Justicia y Paz* was the target of an aggressive public relations campaign by Colombia's military's supporters, including the country's two principal newspapers, who accused them and other human rights groups of operating as civil fronts for the guerillas. Not surprisingly these accusations were soon followed by the assassinations of many human rights workers (Kirk, 1993).

Faced with an indifferent public and a hostile and dangerous environment at home Colombian human rights organizations began to appeal for international solidarity. For some time, the few international human rights INGOs with a presence in Colombia (particularly the Danish-based *Project Counseling Services*—PCS) had been urging Colombian NGOs to develop greater links with other regional human rights organizations that had successful experiences working with IDPs in Central America. Although many Colombian activists were initially disinclined to involve foreign groups, arguing that the situation in Colombia was in fact very different, they also recognized that they desperately needed help coordinating and obtaining greater legitimacy and visibility if they were to survive.[92]

[92] Interview with Juan Manuel Bustillo. Bogotá. April 22, 2013.

A first appeal was made to the international community in the summer of 1990 when two of Colombia's main human rights organizations invited the Geneva-based *International Council of Voluntary Agencies* (ICVA), to visit Colombia. That same year ICVA had made significant contributions in calling attention to the crisis in El Salvador and these NGOs wanted to initiate a similar campaign in Colombia.[93] After visiting the country in 1991 ICVA produced an extensive report representing perhaps the first approximation at the national level of the displacement crisis in Colombia. ICVA's visit was followed in November by a visit by the Inter-American Human Rights Institute (IIDH – a regional human rights INGO based in Costa Rica) and the first *National Seminary on Internal Displacement in Colombia*. This conference, organized by IIDH in Chinaua, brought together Colombia's principal human rights and IDP organizations, together with academics, representatives of the Colombian government, the Catholic Church, and a number of international observers form other countries in the hemisphere that had suffered displacement (e.g. Peru and Central America).

Although the conference succeeded in bringing the different factions of Colombian civil society that, in one way or another, had worked to address the country's displacement crisis (i.e. activists, humanitarians and academics) closer together, the discussions evidenced their inchoate grasp and fragmented response to the problem (Osorio Péres, 1993). This seminary represents an important turning point in the development of social domestic mobilization around the issue of displacement.

The conference succeeded in placing the issue of forced migration on the national agenda. It also demonstrated that the work that had been done until then on behalf of or for the benefit of IDPs in Colombia was utterly unsatisfactory. More specifically it was

[93] See letter from Javier Giraldo M. S.J., President of the Colombian Section of the International League for the Rights and Liberation of Peoples to The Executive Committee of the International Council of Voluntary Agencies. June 8, 1990 (ICVA, 1991).

lacking in terms of: "agility, experience, institutional participation, regional information, organization, common purpose, and necessary documentation."[94] It also made clear how all parties could benefit from the regional network of activism and expertise that had emerged as a result of similar crises in Central America and Peru. Over the next two years these linkages solidified. Beginning in 1992 ICVA, for example, sponsored a series of Colombian and pan-Andean initiatives, including the institution of regular working groups and the first pan-Andean conference on displacement held in Lima in May 1993. During these encounters Colombians and Peruvians sought ways of bringing the issue of Andean displacement to the international level (Kirk, 1993).

EVOLVING REGIONAL SUPPORT FOR IDPS

The civil wars in Central America during the 1980s had provided the region with a formative experience, which marked the birth of a regional regime to protect internal refugees and victims of internal conflict. These experiences had resulted in a number of innovative regional formulations and institutional responses for the protection of forced migrants. The 1984 *Cartagena Declaration on Refugees* broadened the definition of refugees to include internally displaced persons and expressed a sense of regional responsibility for their protection.[95] In 1989, the International Conference on Central American Refugees (CIREFCA), convened by UNHCR and the governments of Central America, put in place a number of national and regional mechanisms to assist in the

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[94] According to the evaluation made by ILSA (Instituto Latinoamericano par una Sociedad y Derecho Alternativo) at the National Workshop on Internal Displacement (Bogotá, August 1992). Quoted in Segura Escobar (2000).

[95] The Cartegena declaration is a non-binding agreement drafted by a number of government representatives and legal experts from the 6 Central American countries (Guatemala, Belize, Honduras, El Salvador, Nicaragua, and Costa Rica) and the members of the Contadora Group (Mexico, Panama, Colombia, and Venezuela) at the *Colloquium on the International Protection of Refugees, in Central America, Mexico and Panama*, held in Cartagena from the 19 to the 20th of November 1984.

reintegration of returning refugees and IDPs. Its plan of action called for Central American governments and international donors to commit themselves to very far-reaching humanitarian and development programs. The Central American peace processes also resulted in the creation of an ambitious five-year United Nations Development Program for IDPs, Refugees, and Returnees in Central America (PODERE) that brought together various relief and development agencies to facilitate the reintegration of over two million uprooted persons (Cohen & Sanchez-Grazoli, 2001).

Following these programs' successful implementation the Inter-American Human Rights Institute (IIDH) created the *Permanent Consultation on Internal Displacement in the Americas* (CPEDIA) in 1992 to serve as a regional clearinghouse of information on IDPs, provide technical assistance to governments and organizations working with them, and organize forums and training programs to promote respect for human rights and IDPs (Cohen & Deng, 1998b).[96] Although the initiative was relatively short-lived, CPDIA successfully conducted various country visits (to Guatemala, Peru and Colombia), and drafted an important body of legal principles, which were key to the formulation of the *UN Guiding Principles*.

In 1992, at the invitation of the government, CPDIA visited Colombia to analyze the internal displacement problem and issue a confidential report. This report provided the first working definition of IDPs that was later widely adopted by domestic NGOs (including the Catholic Church) and served to define the issue in Colombian legislation. CPEDIA defined internally displaced persons as:

[96] This body was composed of a group of representatives of major international organizations such as UNHCR, UNDP, UNICEF, WFP, IOM, the Inter-American Commission on Human Rights and IIDH, NGOs such as the World Council of Churches and the Refugee Policy Group; as well as a number of independent experts and observers.

"Every person who has been forced to migrate within the national territory, abandoning his place of residence or his customary occupation, because his life, physical integrity or freedom has been rendered vulnerable or is threatened due to the existence of any of the following man-made situations: internal armed conflict, internal disturbances or tensions, widespread violence, massive violations of human rights or the circumstances originating from prior situation that can disrupt or drastically disrupt public order." [97]

By tapping in to the existing regional norms and human rights networks and strengthening their ties with international INGOs Colombian activists succeeded in forcing the Colombian government for the first time to officially recognize the problem of internal displacement in 1992.

After reaching out to the international community, Colombian NGOs received urgently needed training, legal support and expertise as well as a cover of legitimacy that made it increasingly difficult for the Colombian government to ignore their claims. Among other things, increased international scrutiny, in the form of reports and accompaniment in the field, made it more difficult to persecute and intimidate human rights activists in Colombia.

More importantly, the internationalization of Colombian advocacy also led to a sort of depolitization of the issue of internal displacement. Colombian activists gradually abandoned their rhetoric of "social injustice" that had been traditionally advanced by the militant left and learned to reframe the issue more effectively as a "humanitarian crisis" that called for the application of regional and international norms. Colombian advocacy also increasingly adopted the language used to great effect by organizations such as IIDH and UNHCR in Central America. In various reports produced during the early 1990s, the concept of "displaced" increasingly replaces the more generic concept "victim of

[97] Revised definition, approved in the course of the Technical Meeting of CPDIA on April 15, 1993. Quoted in Obregón and Stavropoulou (1998).

violence," and "displacement" replaced "internal exodus" (Osorio Péres, 2001). Advocates increasingly disassociate displacement from the pet issues of the militant left – their calls for agrarian reform and a critique of neo-liberal models of development – and increasingly associated it with a non-partisan call for the humanization of the war in Colombia and the application of international humanitarian law. Together with documentation of the crisis this reframing of the issue also made it easier for the government of Colombia to recognize the problem.

According to Keck & Sikink (1998), transnational activists networks (or "TANs") "frame" issues to make them comprehensible to target audiences, to attract attention, encourage action, and to "fit" with favorable institutional venues. This is one of the principal tools TANs utilize to mobilize support for their cause and influence policy. Keck & Sikkink define framing to mean "conscious strategic efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action." According to Snow et al. (1986), "by rendering events or occurrences meaningful, frames function to organize experience and guide action, whether individual or collective."

Framing is a powerful way of bringing issues to the public agenda. As Keck & Sikkink have demonstrated (1998), TANs can generate new policy issues by framing old problems in new ways; occasionally they help transform other actors' understandings of their identities and their interests. For example, the campaign for land use rights in the Amazon in the 1980s took on an entirely different character and gained a number of different allies when it was framed as an issue of deforestation rather than one relating to social justice or regional development.

In a similar way interaction with international, and particularly Latin American, INGOs led Colombian IDP advocates to reframe the problem of internal forced migration

from an issue of social justice and land reform into one that was less political, and which concerned humanitarian norms and Colombia's compliance with international standards.

Keck and Sikkink (1998) have noted that transnational advocacy campaigns have tended to be most effective when they: (1) involve issues of bodily harm to vulnerable individuals; and (2) involve legal equality of opportunity. The first characteristic responds to a normative logic, the latter to a judicial and institutional one. Colombian activists learned to emphasize both of these characteristics. Simultaneously, they increasingly portrayed IDPs as innocent non-combatants caught in a war that was not of their making and they called on the government to comply with widely accept international human rights and humanitarian standards.

By emphasizing the humanitarian crisis the IDP movement increasingly succeeded in broadening their alliances within Colombian civil society to include, most notably, a conservative Catholic Church. By highlighting Colombia's international legal obligations they hit a nerve with governing elites who were particularly sensitive to the country's standing in the world and Colombia's identity as a law-abiding democracy.

International NGOs also helped better coordinate advocacy efforts in Colombia. Encouraged by international advocates, a group of six well known Colombian human rights NGOs created an umbrella organization that focused exclusively on displacement – the Support Group on Displacement (Grupo de Apoyo a Desplazados, or GAD) – in 1994.[98] GAD soon became the leading organization on issues of displacement and the principal intermediary with international activist networks and donors. Among other things, they forcefully lobbied the Colombian government, supported nascent IDP organizations (such as ANDAS and ASCONDAS) and called domestic attention to the

[98] The number eventually grew to 13 organizations. GAD later dissolved in 2001 because of differences between its members and budgetary problems (they purposely rejected money from Plan Colombia).

displacement crisis by publishing annual reports on the state of displacement as well as a newsletter called *Exodo*. Most importantly GAD became the point of contact in Colombia for emerging international organizations seeking to promote the international IDP regime. GAD, for example, was instrumental in facilitating a visit to Colombia by the UN's Representative to the Secretary General on Internal Displacement (RSG), Francis Deng, in 1994 and another visit by the Inter-American Commission on Human Rights (IACHR) in 1996. These visits greatly contributed to bringing international attention to the crisis in Colombia. GAD also kept the Colombian government accountable by publishing follow-up reports on the RSG's and the IACHR's recommendations.

Without international support an organization like GAD would most likely not have survived for very long in Colombia. GAD received most of its funding from international donors, most notably from the Norwegian Refugees Council (NRC) and Project Counseling Services (PCS) and derived much of its legitimacy from its international associations. In 1996 GAD, for example, became a UNHCR partner in action (PARNAC), which made the organization a fixture at the UN headquarters in Geneva and significantly raised the organization's profile at home.

Perhaps the most important NGO on displacement that emerged around this time was CODHES (*Consultancy for Human Rights and Displacement*). The organization, which was created in 1992 by an exiled left-wing journalist, Jorge Rojas, and several Colombian academics, sought to call attention to the displacement crisis from a humanitarian perspective. Although Rojas had spent most of his life as a left-wing militant while in exile in Ecuador during the 1980s Rojas became connected with an international network of refugee activists and somehow sensitized to the importance of framing Colombia's displacement problem in humanitarian terms and collecting hard

data. Upon his return to Colombia in 1991, he and his colleagues, with the support of the Catholic Church, helped put together the first nation-wide systematic evaluation of internal displacement in Colombia, which was published in 1995.[99]

CODHES subsequently became the country's principal think-tank on the issue of displacement, monitoring and publishing the numbers and trends of internal forced migration on a yearly basis. Perhaps their greatest achievement was the development of the first system and database to estimate the number of IDPs in Colombia. Its second director, Marco Romero, recognized that by quantifying the magnitude of internal displacement in Colombia and producing "hard numbers" CODHES forced the Colombian government to finally confront the problem. While the Colombian government tried on several occasions to discredit the claims that CODHES was bringing before the international community they failed because they could not provide their own estimates with which to challenge CODHES. This eventually led the Colombian government to create its own registration system with which to monitor the crisis. According to Marco Romero: "Once this system was in place the government could not ignore the problem as easily."[100]

Initially, CODHES focused its attention on a domestic audience but soon realized that it would have significantly more leverage if it took its message internationally. They also encountered an international community eager to support their data collection and documentation efforts. Over the years, CODHES received funding from, among others, UNHCR, UNICEF, IOM, USAID and the Spanish Government. In order to appeal to an international audience CODHES framed Colombia's crisis in human rights and humanitarian terms. Its first publication, in 1993, (*Displacement Human Rights and*

[99] Interview with Marco Alberto Romero Silva (Director of CODHES). Bogotá. April 23, 2013.
[100] Ibid.

Armed Conflict) clearly set the tone of their human rights campaign by calling for the Colombian government to comply with its international human rights obligations. This greatly contributed to further depoliticize the issue of displacement.

THE CATHOLIC CHURCH

Internal displacement also emerged as an issue of public policy in Colombia as a result of the Catholic Church's involvement. Since the 1980s Catholic perishes had been at the forefront of the displacement crisis. Because most IDPs tended to distrust state authorities many reached out to local parishes and grass roots Catholic organizations for help at the sights of reception. At first the church was hesitant to become too involved with the issue. But as parishes in conflict zones became increasingly overwhelmed by the large influx of refugees they too began to generate attention to the problem. In other countries in the hemisphere – most notably in El Salvador, Guatemala and Peru – the Catholic Church had played a central role in addressing displacement. Perhaps because the church in Colombia was traditionally more conservative than most in the region, this process was a little slower in Colombia. At first the church's National Social Ministry Secretariat (Pastoral Social) and the church's Human Mobility section began supporting and working alongside local IDP organizations in places like Barrancaberjeja, Villavicencio and Ariari (ICVA, 1991). In 1994 the Colombian Bishops' Conference adopted internal displacement as the theme of its yearly conference and initiated a year-long project to document the number of IDPs at the parish level from 1985 to 1994 which culminated in the publication, together with CODHES, of a report titled: "*Human Rights: Persons Displaced by Violence in Colombia*." This report published in 1995 represented the first authoritative survey of Colombia's internal displacement crisis at the national

level. The study estimated that between 1985 and 1995 more than half a million Colombians, or approximately 2% of the country's population, had been displaced as a result of violence.[101]

According to a number of experts the study was instrumental in putting internal displacement at the forefront of the national agenda and crystalizing the issue as a humanitarian problem that required the application of existing international norms.[102] As a respected institution with right wing leanings, the Church gave credence to the claims of the displaced community without arousing political suspicion. The study elevated the profile of displacement, contributed to further de-politicize the issue, and equipped activists with solid data with which to confront state authorities. The Church's study also motivated an unprecedented wave of scholarship on the different dimensions (i.e. psychosocial, socioeconomic, health, educational, ethnic, and gender) of the phenomenon of displacement resulting in a number of seminaries, reports and studies by NGOs, government entities, and academics.[103]

COLOMBIAN GOVERNMENT RESPONSE

Until roughly 1993, the government of Colombia did not recognize internal displacement as a problem. The government ignored the crisis either because it saw forced migration as an indistinguishable part of the process of colonization and internal migration or because it perceived it as a consequence of violence for which it repeatedly

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101 The study estimated that there were about 108,301 families (or 586,261 IDPs) had been displaced between 1985 and 1994. This figure signified that one in 60 Colombians was an IDP (Conferencia Episcopal de Colombia, 1995).

102 Interviews with: Juan Manuel Bustillo (April 17, 2013), Flor Edilma Osorio Pérez (July 16, 2013) and Roberto Carlos Vidal Lopez (April 18, 2013) in Bogotá.

103 See excellent bibliography compiled by Flor Alba Romero (1998).

denied responsibility. From their perspective Colombia's main problem resided in the fact that the state was not consolidated enough and that civilian authorities were not in control of much of the national territory (Obregón & Stavropolou, 1998). During the Barco (1986-1990) and Gaviria (1990-1994) administrations the government did not take any concrete actions to address the problem (Osorio Péres, 2001). The government's National Planning Department was opposed to the creation of a new category of "displaced people" arguing that it could potentially marginalize the sections of the population that provided "civil resistance" by remaining in the conflict zones.[104] Some factions in the government were more sympathetic. The Office of the Presidential Advisor for Human Rights, which was established in 1987 and was partially financed by the UN, took the challenge of forced displacement a lot more seriously than other government agencies by collaborating with a number of NGOs and providing them with an institutional opening. During the national seminar on displacement held in 1991, President Gaviria's Human Rights Advisor, Jorge Orlando Melo, publically recognized that Colombia had regrettably ignored the problem of forced displacement for many years and that the government's response had been inadequate. He called upon civil society to generate more rigorous estimations of the problem, invited IDP organizations to dialogue with the government and welcomed international expertise to help formulate more coherent responses (Melo, 1992).

The government's approach to displacement was initially very *ad hoc*. Beginning in 1988 the Office of the Presidential Advisor for Human Rights, for example, administered a fund that distributed about $500,000 during a four-year period to provide food, shelter, and medical supplies to some displaced families and communities who

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104 Departamento Nacional de Planeación, *Ponencia,* p. 2. Quoted in Vidal López (2007).

would occasionally contact them directly. According to Marta Franco, who directed the fund, the program lacked any sort of direction and amounted to little more than "putting out fires" (Kirk, 1993).

In 1992 the government for the first time officially recognized the existence of a problem by setting up, though Presidential Decree 281, a more substantial national "Fund of Solidarity and Social Emergency" with a budget of $1.5 million to research and aid victims of violence. Although the program was plagued by serious administrative problems, it did represent a significant development because for the first time a presidential document recognized the existence of a population suffering from violence and needing government assistance (Kirk, 1993). Beginning in 1993, the government made an effort, again through the Office of the Presidential Advisor and with international assistance, to implement a system to record human rights violations in Colombia that included displacement. The initiative failed to take off and was greatly handicapped by a political crisis that was to accompany most of the Samper administration (1994-98) (Segura Escobar, 2000).

The Colombian government did not really begin to formulate a coherent institutional policy towards displacement until President Samper (1994-1998) came to power. After Samper's election, during the summer of 1994, the Colombian government invited the newly appointed *UN Representative to the Secretary General on Internally Displaced Persons* (RSG), Francis Deng, to visit Colombia. During Deng's visit the government organized a workshop for the "Proposal of Integral Policies Related to Displacement in Colombia" for which it brought together representatives from various international organizations, domestic and international human rights NGOs (including IIDH and ICVA), the church, and various IDP organizations and the RSG (Republica de Colombia, 1994). During the discussions Samper's Human Rights Advisor, Carlos

Vicente de Roux, publically signaled a change in course and called upon civil society to help him influence the rest of the state apparatus to take on the issue of internal displacement. He recognized that in the past the government had been resistant to recognize displacement because: "…like other human rights concerns [it] had been traditionally viewed with caution and resistance as a flagship for the guerilla and leftist circles…" He suggested that attitudes within the government were slowly changing and asked civil society to join him in leading the charge towards developing a responsible government policy and to help him with "transforming" and "educating" the state. He concluded by emphasizing that: "If there is a matter in which the state cannot work alone it is that of displacement caused by violence" (Republica de Colombia, 1994).

Subsequently, the Samper administration sought out opportunities to form alliances and to discuss with academics and NGOs the prospect of developing a set of norms and procedures for internal displacement. Many NGOs treated these openings with trepidation perhaps suspecting an effort to coopt them, and collaborated with the government while maintaining a safe distance (Osorio Péres, 2001). In a speech on the occasion of Colombia's National Human Rights Day celebration (September 9, 1994), President Samper formally recognized the problem of internal displacement and the state's responsibility to address it (Obregón & Stavropolou, 1998). The following June, he convened a Mediation and Follow-up Commission to develop guidelines on displacement with the participation of NGOs, the Church, the Ombudsman, Attorney General, the National Planning Office, and the Presidential Advisor for Human Rights. By September of 1995, the government's National Planning Department issued a first draft of a *National Program for the Attention of the Population Displaced by Violence*

(referred to as CONPES document 2804).[105] This document took into account the findings of the Catholic Bishop's Council and incorporated many of the RSG's and CPDIA's recommendations (including CPDIA's definition of IDPs).

CONPES Document 2804 recognized forced displacement as a violation of international humanitarian law and situated the government's program towards IDPs within the wider framework of President Samper's social development project called the "Social Jump." Although, according to many IDP advocates the program failed to incorporate the input from NGOs with grass roots and administrative experience with IDPs (Obregón & Stavropolou, 1998), it signaled a first attempt to devise a national policy on displacement which involved multiple government entities. By 1997 many structural problems of the program[106] became evident and the government was forced to draft a second CONPES document (2924). The document was signed by a newly created Office of the Presidential Advisor for Displacement, the Presidential Advisor for Human Rights and Social Policy and the National Planning Department.

On July 18, 1997, both CONPES documents were incorporated into Law 387 *"..in which measures are adopted for the prevention of forced displacement as well as for the attention, protection, stabilization and socioeconomic consolidation of internally displaced as a result of violence in Colombia."* The law did not only mark a significant

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[105] CONPES (the Council on Political and Social Policy) is an advisory body of the executive branch that operates similarly to the National Planning Department.

[106] The second CONPES document recognized that different state institutions involved in administering the program did not accept responsibility for carrying out the policy or for creating the necessary normative structures do so. The program, as first established, was run by the Interior Ministry's Special Administrative Unit for the Protection of Human Rights, which was created by the Samper Administration. The unit, however, was significantly under-funded and under-staffed. The person in charge of heading the program had to rely on the good will of government officials in other institutions for support. Not only was this difficult to obtain but eventually he received death threats and was forced to leave the country. Consequently, the new document modified the existing institutional structure to cover all levels of government, from the presidency to local institutions in order to broaden the program's reach (Obregón & Stavropolou, 1998).

step to integrate a national policy with regards to displacement but also signaled Colombia's acceptance and commitment with the emerging international regime to protect IDPs. The law recognized that violence was the principal cause of displacement but most importantly, it committed the government to a set of important principles around which the international regime to protect IDPs – and particularly the *UN Guiding Principles* – were being built.[107] Law 387 effectively enshrined a set of international "soft law" norms with regards to displacement into "hard law" (Vidal López, 2007). To emphasize the seriousness of its commitment, that same year the Colombian government invited UNHCR to establish an office in Bogotá dedicated to the protection of IDPs.

It is difficult to say with much certainty why Samper's administration broke so radically with previous Colombian governments and pursued a pro-IDP agenda. Part of this can be explained by the fact that, as described earlier, the rate of internal displacement accelerated significantly Colombia during the latter half of the 1990s making it increasingly difficult for the government to ignore. By the mid-1990s the Colombian IDP movement was also beginning to employ, to great effect, a "boomerang strategy" of transnational activism coined by Keck and Sikkink (1998) to exert significant pressure on the Colombian government both domestically and internationally to take action. Gradually, Colombian human rights organizations and IDP advocacy groups succeeded in linking up with international and regional human rights networks. From them they received greatly needed funding, training and symbolic support. They became better organized and learned to reframe the IDP problem in a way that resonated with a wider domestic audience. This, in turn, allowed the IDP coalition to broaden outside of

[107] These included: (1) the right of IDPs to receive international aid; (2) The right to internationally recognized civil rights; (3) The right not to be discriminated against because of one's status as "displaced"; (4) the right to be reunited with family members; (5) the right to find durable solutions to displacement; (6) the rights to return to the place of origin; (7) the right not to be displaced; and (7) the obligation of the state to promote the conditions that would facilitate coexistence, equality, and social justice among all citizens.

traditional leftist circles to include, most importantly, the hierarchy of the Catholic Church.

By reframing the displacement crisis as a humanitarian problem that concerned Colombia's commitment to international humanitarian standards and linking with allies abroad they also forced resistant sectors of the Colombian government, such as the security forces, to view internal displacement as a problem that needed to be addressed and gave the more progressive sectors of the government, such as the Presidential Human Rights Advisor, much more leverage. By providing solid documentation of the dimensions and social implications of the crisis and diffusing this information internationally they also made it almost impossible for Samper to continue to avoid action.

The shift during the Samper administration can also be explained by the fact that he was ideologically much more sympathetic than his predecessors to the human rights agenda. When he was faced with a critical legitimacy crisis, as a result of allegations that his campaign had accepted moneys form the Cali Cartel, Samper seized the opportunity to generate domestic and international support by making important human rights concessions. The following sections will examine in more detail the effect of each of these factors in bringing Colombia to commit to the international IDP regime.

INTERNATIONAL PRESSURE

During the 1990s, as the conflict in Colombia intensified and the wars in Central America winded down, Colombia became the subject of significant international pressure to address its deteriorating human rights and humanitarian crisis. This pressure came in large part from multilateral organizations – particularly within the Inter-American human

rights system and the UN. By 1995 the Inter-American Commission for Human Rights (IACHR)[108] had issued 11 separate pronouncements and the UN Human Rights Committee five pronouncements in which they noted that Colombia was in violation of its international human rights obligations (Jaramillo & Novoa, 2008). According to Ozorio, Colombia's institutional responses, which culminated with Law 387 of 1997, were in many ways the result of international pressure and accusations that had real political and economic consequences that consistently highlighted internal displacement as a human rights problem (Osorio Péres, 2001).

The IACHR began turning its attention to Colombia in the 1980s when the conflict intensified and became particularly concerned with internal displacement in the early 1990s. After a visit to Colombia in 1992 in which commissioners met with Colombia's principal human rights organizations the IACHR issued a special country report that expressed "…grave concern with rise of violence and HR violations" and called on Colombia to adopt Protocol II of the Geneva Conventions concerning the protection of victims of internal armed conflict (IACHR, 1993). In 1994 Colombia was listed for the first time under Chapter 4 of the IACHR's annual report, which catalogs the hemisphere's most precarious human rights situations, and in which, according to a IACHR officials, countries desperately seek to avoid being listed.

It is clear that from very early on, IACHR took on the issue of internal displacement much more seriously than other regional organizations and felt obliged to intervene. One possible explanation for this is that Robert Goldman, one of the members of the commission and a renowned American human rights jurist, was also one of the

[108] Founded in 1959 the IACHR is an autonomous organ of the Organization of American States with headquarters in Washington DC. Together with the Inter-American Court of Human Rights, it is one of the bodies that make up the inter-American system for the promotion and protection of Human rights. The commission meets in regular and special sessions several times a year to examine allegations of human rights violations in the hemisphere.

principal drafters of the *UN Guiding Principles on Internal Displacement*. Within the commission, Goldman had served as the commission's Special Rapporteur for Colombia and in 1996 he convinced that body to appointment him as the IACHR's special rapporteur on internal displacement. His appointment was part of an effort devised by the framers of the IDP regime – Deng, Cohen, and Goldman – to promote the regime through regional intergovernmental organizations. Although the RSG and his team had approached other regional organizations, the Inter-American System had been the most responsive. By instituting the office of a special rapporteur for the Americas they hoped to set up a precedent, which they could use to pressure the African Union and other similar bodies. In 1999, Goldman left that position to become the president of the commission, thus ensuring that internal displacement remained at the front and center of the commission's agenda.

The UN system also became increasingly involved in pressuring Colombia to address its human rights situation. Since 1987, UNDP's mission in Bogotá had supported a number of government projects to promote human rights, including the institution of a Special Presidential Advisor for Human Rights, and had generally exhibited a high degree of solidarity with Colombia's human rights movement (Deng, 1994). Alarmed by an increase in violence, the UN conducted two human rights fact-finding missions in Colombia during the late 1980s, and another mission to evaluate the Office of the Presidential Advisor for Human Rights in 1992.[109] The human rights movement gradually came to view the UN as a key ally and increasingly exerted pressure to broaden the UN's presence in Colombia. UNHCR had a very small presence in Colombia. But it

[109] See: Comisión de Derechos Humanos de las Naciones Unidas, Consejo Economico y Social. *Informe de la misión de evaluación del proyecto de apoyo a la Consejería presidencial para la defensa, protección y promoción de los derechos humanos de Colombia. (E/CN.4/1993/61/Add.3), 6 de Septiembre 1993.*

was relatively uninvolved with Colombia's IDPs because, at the time, the agency maintained that internal displacement fell outside of its mandate.

When the RSG, Francis Deng, visited Colombia for the first time during the summer of 1994, a number of NGOs took advantage of his visit to call for the appointment of a special UN human rights rapporteur for Colombia. They were convinced that a special rapporteur would help to maintain a high level of international pressure, which they understood to have been a catalyst in opening the government to their human rights concerns. According to Deng (1994), at first the Colombian government strongly opposed the idea arguing that any increase in international pressure would be counterproductive. However, the government signaled that it would be open to some sort of lower-key UN presence. Although a special rapporteur was never appointed, in 1996 the government agreed to invite the UN's Office of the High Commissioner for Human Rights (OHCHR) to open up a mission in Bogotá: "*…to monitor the human rights situation and to provide technical cooperation with a view to addressing the underlying causes of the human rights problem.*" This office was to become the UN's focal point for internal displacement in Colombia (Deng, 2000).

Although the UN had had some sort of presence in the country for many years, in the eyes of human rights advocates the establishment of a OHCHR mission essentially marked "the arrival of the UN to Colombia" and was a significant turning point in the fight on behalf of Colombia's IDPs. According to several activists interviewed, the presence of OHCHR, and later of a UNHCR mission primarily focused on displacement proved to be a significant boost to the country's human rights campaign. The UN missions in Bogotá gave international human rights and humanitarian norms a sort of physical presence or "reminder" which caused the Colombian government to attribute a

lot more importance to these norms than they previously had.[110] In an interview with the author, President Samper acknowledged that the arrival of OHCHR had motivated his government to treat internal displacement as a priority.[111] The UN missions also provided the Colombian human rights community with powerful allies that could more effectively lobby the Colombian government and afforded them a powerful international voice. The UN gave legitimacy to the claims of Colombia's NGOs and provided activists with desperately needed guarantees of physical security by providing observers that would accompany Colombian human rights workers on field missions.[112] In return local activist groups helped the UN by disseminating their pronouncements in Colombia and monitoring in the field the following-up to the UN agencies' many recommendations. During the early years, the UN representatives in Colombia maintained very close relations with the NGO community and were very forceful with the Colombian government.[113] Many of the UN officers who came to Colombia had previously worked in Central America, and they brought with them a wealth of experience. Colombian activists credit Leila Lima, a Brazilian national and UNHCR's first representative to Colombia, who had previously been posted in Central America, for successfully pushing the Colombian government to adopt a number of protective measures for IDPs including the establishment of demilitarized humanitarian zones in areas of conflict.[114]

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110 Interview with Catherine Bouley (Christian Aid Colombia). April 9, 2013. Bogotá.

111 Interview with former Colombian President Ernesto Samper Pizano. April 16, 2013. Bogotá.

112 Interview with Flor Edilma Osorio Pérez. July 16, 2013. Bogotá. This was particularly critical during the aftermath of Operation Genesis in 1997 in which a group of paramilitaries conducted a massacre in the municipality of Cacarica in Chocó resulting in massive displacement.

113 To the regret of many advocates interviewed, this appears to have changed over time as the Colombian government began to make concessions.

114 Interview with Gimena Sánchez-Garzoli (WOLA; formerly at Brookings' IDP Project). March 28, 2013. Washington, DC.

The increased involvement of the international community in Colombia not only empowered the more progressive sectors within the state (i.e. the offices of the Ombudsman, the Attorney General and the Presidential Advisor for Human Rights) but also facilitated closer relations between these and civil society groups working with IDPs.

As a result of international pressure, Colombia also took measures to fortify its compliance with the rulings of international human rights bodies. In 1996, for example, Colombia instituted Law 288, which, for the first time, established mechanisms to compensate victims of human rights violations following rulings by the Inter-American Court and UN Human Rights Commission (Jaramillo & Novoa, 2008).

By the early 1990s these sectors within the Colombian government recognized the urgency to respond to the country's displacement crisis. However, other elements within the government – mainly the armed forces – continued to resist the claims of the human rights community. It was not until President Samper took office in 1994, and he soon became mired in a legitimacy crisis, that real institutional changes began to occur. [115]

SAMPER ADMINISTRATION

President Samper's administration marked a significant shift in Colombia's official attitude towards human rights and international humanitarian norms. Aside from instituting for the first time a policy framework to address displacement Samper's

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115 The RSG's 1994 report noted that despite a historically deep-rooted suspicious government attitude towards the NGO community: "there seems to have been a serious opening up of the Government to the work of the NGOs, which the NGOs themselves recognize. Some government officials, both at the central and local levels, recognized that the NGO community was doing important work, often with no support from the State…Some believe that much of this new receptivity has been caused by recent international concern with the human rights record of the country, and that it extends only to the progressive elements within the Government" (Deng, 1994). (See Ph. 100)

government also took a series of measures that human rights activists had been advocating for quite some time. In 1995, for example, Colombia adopted Protocol II of the Geneva Convention. In 1997 the country ratified the Inter-American Convention on Torture and the International Land-Mine Convention. Samper also created a special administrative unit for human rights within the Interior Ministry and in 1996 reformed the military justice code.

Observers, however, still debate the extent to which this shift was due to Samper's progressive ideology and personal appreciation for human rights and the extent to which this shift reflected a calculated response in the face of a political crisis in which he found himself entangled soon after taking office. After winning an election against Andrés Pastrana by a very narrow margin in 1994, Samper's administration became ensnarled in a lengthy investigation of allegations that his campaign had accepted $6 million in contributions from the Cali drug cartel. The investigation, know as "Procedure 8000" (after the file number assigned to the case by the Attorney General), launched the country into an institutional crisis that almost toppled the government. Although the investigation established that Samper's campaign had indeed solicited and accepted funds from the Cali drug cartel, it was never able to establish Samper's knowledge of this transaction. Nevertheless the president continued to be plagued by suspicions.[116] It is clear, however, that this political crisis and Samper's desperate search for domestic and international legitimacy created a structural opening that benefited the agenda of the international trans-national IDP network.

Compared to many of his predecessors, Samper was certainly a progressive president. A self-proclaimed "social democrat," Samper launched a number of radical

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116 President Sampers' campaign chief, and later minister of defense, Fernando Botero Zea, and his campaign's treasurer, Santiago Medina were tried and imprisoned.

social and modernization initiatives as part of his "Social Jump" development plan (known in Colombia as the "*Salto Social"*). His government invested heavily in social programs and measures for poverty alleviation. In order to protect small farmers from agro industrial interests he also created a number of autonomous peasant reservations (*zonas de reserva campesinas*) – an initiative that the FARC was later to propose expanding during its negotiations with the Colombian government. Samper had also been a victim of a paramilitary attack that nearly killed him.[117] As he outlined in his inaugural speech, a significant component of Samper's *Salto Social* plan was the definition of a human rights policy that would bring Colombia in line with international human rights and humanitarian norms and that would humanize Colombia's internal conflict by protecting non-combatants.[118]

From the outset of his administration Samper recognized that displacement was a major humanitarian problem in Colombia. He recognized that Colombia was confronting a new phenomenon in which "masses of people were migrating to cities" and that this was something that the government needed to address. Although he suspected that economic motivations continued to account for much of Colombia's urban migration he admitted that Colombia's increasingly inhumane conflict was producing a new phenomenon in which multitudes, mostly women and children, were being forcefully

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117 In 1989, as a rising political star, Ernesto Samper survived a paramilitary attack at the El Dorado Airport in Bogotá in which José Antequer, a leader of the leftist Union Patriotica was assassinated. Although he was not the target of the assassination, he was hit by five bullets that he continues to carry in his body.

118 To this effect Samper outlined a number of policy items in his inauguration speech on August 7, 1994: (1) opening the country to international scrutiny; (2) the humanization of the internal armed conflict; (3) the fight against impunity; (4) the fight against irregular armed groups; (5) the sensitization of the security forces to human rights; (6) programs for those displaced by political violence; and (7) partnership with human rights NGOs. Quoted in Echeverry (2008).

displaced.[119] In fact, during his inauguration Samper specifically mentioned the need for programs to benefit Colombians "displaced as a result of violence."

During the first years of Samper's administration the rate of displacement increased significantly and Colombian NGOs were able to document this. Although Samper disputed the estimates provided by NGOs, which he suspected of "living from advocacy" he was ready to work with them and admitted to being educated by them about displacement. Samper also admitted that OHCHR's presence in Colombia was a key motivator to finally devise a national policy on internal displacement.[120]

One of the principal challenges the Samper administration faced was that by 1994 there were no clear international guidelines on which to base a policy towards IDPs. Samper recalled discussing with UNHCR different ways of applying the 1951 Refugee convention to IDPs. Eventually much of his ensuing legislation became based on the 1984 Cartagena Convention and the Protocols to the Geneva Convention, which govern the treatment of non-combatants in internal conflicts. On final account, these norms (and the recommendations of CPDIA) rather than the RSG's pronouncements appear to have been the real normative basis for Law 387.

In order to articulate an appropriate institutional response Samper knew that he really had to understand the phenomenon of displacement. Samper admits that the government was initially focused on facilitating the return of IDPs to their place of origin. His administration, however, eventually concluded that this approach was bound to fail because most IDPs had no intention of returning. According to Samper "the government would practically have to force them to return." This was due not only to continuing threats but also to the fact that IDPs, on average, encountered significantly

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119 Interview with former Colombian President Ernesto Samper Pizano. April 16, 2013. Bogotá.
120 Ibid.

better standards of living in the city slums, like Ciudad Bolivar, in the outskirts of Bogotá, than in the countryside regardless of high levels of violence in the slums. The administration was forced to look at the challenges in stages (in terms of displacement, return and resettlement) and to formulate adequate institutional responses for each stage. According to Samper, who liked to utilize the imagery of a wound, the government's first task was to "stop the bleeding" by addressing the humanitarian needs of IDPs; and then close the wound by providing IDPs with the means for sustainable living, education, and permanent housing for the majority of those who chose to resettle in the cities. Having realized that approximately 90% of IDPs had no intention of returning the government focused its attention on developing integration programs like that of "nivelacion educativa" (remedial education).[121]

Displacement presented a third and final policy challenge to the Samper administration in that it involved a tremendous amount of coordination between various government entities at the national and municipal levels. To this end, Samper elicited his wife's help. The first lady, Jacquin Strauss de Samper, assumed the initiative of promoting the issue and later coordinating the various government agencies to implement a government policy. According to Samper, aside from himself, Jacquin was the one person within his government best equipped to mobilize so many disparate intuitions (i.e. the Ministry of Agriculture, Education, the Procuraduria, and the National Institute for Land Reform – INCORA, etc.). The First Lady was also allegedly very moved by the plight of Colombia's IDPs. In 1997 she published a book titled: *The Displaced: That Colombia Which We Cannot Ignore* (1997).

[121] Ibid.

Without major discussion the Colombian government adopted the "IDP" definition approved by the human rights experts at CPDIA and the IIDH. This is significant because it demonstrates the level to which the Colombian government was willing to accept the authority and welcome the expertise of the international community on the issue of displacement. In contrast, other countries with internal displacement, such as Turkey and Nepal, sought to narrow the definition of IDPs to the exclusion of particular groups when they finally formulated their own domestic policies on displacement.

The principal debates that emerged in Colombia related instead to the "institutional scaffolding" that would have to be erected to certify that IDPs had genuinely been displaced. While the government insisted on setting in place a number of bureaucratic procedures so as to ensure that its limited resources would not be wasted on people who did not need them desperately, NGOs complained that these procedures were unrealistic and made it basically impossible for IDPs to receive assistance in a timely manner (Osorio Péres, 2001).

Although the intentions may have been genuine it is likely that the Samper administration gave priority to many of these measures in order to appease the international community and form alliances within Colombian civil society at a time of crisis.

The "*Proceso 8000*" scandal, referred to within the administration as "the crisis," diverted a significant portion of the government's attention and resources preventing Samper from governing effectively. The scandal also led to a significant deterioration of bilateral relations with the United States, which was in the midst of intensifying its declared "war on drugs." The US Senate Foreign Relations Committee headed by Jesse

Helms called for a criminal investigation. The head of the DEA in Colombia began referring to Colombia as a "narco-democracy." Subsequently, Clinton's State Department decertified Colombia in March of 1996, and in a particularly painful but symbolic gesture, in July it announced that it was cancelling President's Samper's visa to travel to the United States.[122] Strained relations with the US Ambassador in Bogotá led Samper to accuse him of treating Colombians as "latent criminals" who needed to be taught a lesson between right and wrong (Kirk, 2004).

Samper continues to reject any suggestion that his human rights policy was in any way motivated by international pressure resulting from this political scandal.[123] Nevertheless, as Colombia was in danger of becoming a "pariah" state the human rights reforms made during the Samper administration prompted significant recognition from the international community and attenuated much of the criticism that Colombia was receiving from organizations like the IACHR. Equally as important is the fact that these reforms afforded President Samper with powerful international allies during a time when some sectors of the military were rumored to be preparing a coup against him.[124]

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[122] Samper called the cancellation a "despicable weapon." This episode was particularly painful since Samper's wife, Jacquin Strauss, is the daughter of an American pilot killed over Cambodia during the Vietnam War.
When Samper later travelled to New York with a special UN document to attend the General Assembly meeting, he admitted to keeping in his back pocket a cyanide capsule to take in case the Americans placed him under arrest (Kirk, 2004).

[123] Interview with former Colombian President Ernesto Samper Pizano. April 16, 2013. Bogotá.

[124] According to a former Samper advisor, although policies such as accession to Protocol II of the Geneva Conventions and inviting UN observers to Colombia were perhaps motivated by the presidents' convictions – and certainly cheered on by a group of committed advisors – they were also part of a sincere effort to find international allies with which to keep the Colombian military in check in a time of crisis. Interview with Jorge Orlando Melo. July 18, 2013. Bogotá.

FAILED IMPLEMENTATION

Although Samper succeeded in establishing the institutional scaffolding to respond to displacement, the crisis within his administration made the regulation and implementation of Law 387 very difficult. This law was in many ways groundbreaking, however, it was plagued by a number of problems and was not properly implemented. There are various competing explanations of why 387's implementation was so problematic. Some observers blame government incompetence and its lack of capacity to carry though such a complex piece of legislation in a time of war. They point to an apparent lack of coordination between the different government entities at the national and municipal levels; the incompetence of mid-level bureaucrats; lack of training and proper funding (particularly at the municipal level which bore most of the responsibility for implementing the law); and absence of the state in large swaths of the territory. The political scandal that ensnarled Samper's administration also became a very big distraction, which made it difficult to govern.

After the law's passage, Samper and the two presidents who succeeded him failed to make displacement a priority despite the fact that the crisis continued to grow at an alarming rate. During the last year of his administration Samper was completely distracted by the scandal. Andrés Pastrana (1998-2002), who was eager to negotiate a peace agreement with the FARC, completely abandoned the issue. Alvaro Uribe (2002-2010), who waged an all-out-war to annihilate the guerillas, proved to be very antagonistic to human rights concerns.[125]

There is no single explanation of why Colombia failed to properly implement its model law on displacement. Perhaps the most glaring reason is that international

[125] Interview with Jorge Orlando Melo. July 18, 2013. Bogotá.

pressure on Colombia eased temporarily after the passage of Law 387 – at least during the Pastrana administration. In the absence of effective domestic and international monitoring mechanisms Colombia appeared to be significantly ahead of other IDP crises in terms of compliance with the IDP regime. As the next chapter will illustrate, the reality on the ground, however, was different.

Faced with a set of empty promises and an indifferent executive the IDP movement in Colombia eventually turned to alternative institutional channels of contestation, appealing to Colombia's judiciary to force the government to act. This eventually led Colombia's Constitutional Court in 2004 to effectively take control of the country's policy on displacement and to rule that the government's failure to implement Law 387 represented an "unconstitutional state of affairs." In a ruling of unprecedented breadth, the court explicitly committed Colombia's government to comply with the *UN Guiding Principles on Internal Displacement* that came into being in 1998, a year after Colombia's law was instituted.

By the end of the 1990s Colombia had clearly committed, at least rhetorically, to complying with the international regime to protect IDPs. At the time, Law 387 of 1997 offered perhaps the most comprehensive legislation in the world for addressing displacement. Law 387 affirmed Colombians' right not to be forcefully displaced and the responsibility of the government to formulate policies to prevent displacement. Without debate it adopted the international community's definition of IDP without seeking to discriminate and included a list of important rights and obligations, which were to be outlined the following year by the UN Guiding Principles on Internal Displacement. The law was particularly significant in that, unlike other countries with similar legislation, Colombia was still at war and the IDP crisis was growing exponentially.

As I have shown above, a number of factors forced the government to commit to the regime at that time. Key among these was the successful mobilization of human rights organizations that were able to tap into the regional refugee regime that had emerged from the Central American experience and to link up with a dynamic regional human rights network. Also important was the leadership of an executive that was sympathetic to the plight of IDPs and who sought the opportunity to gain international legitimacy at a time of crisis by committing the country to international norms for internal displacement. The following two chapters will show how the IDP movement forced the Colombian government to translate their rhetorical commitment into action.

Chapter 4: From Rhetoric to Action: Constitutional Court Sentence T-025

In 2004 Colombia's Constitutional Court, having reviewed the petitions issued by hundreds of displaced families and frustrated by the government's failure to follow up with its promises, issued one of the most momentous decisions in its history declaring that Colombia's response to displacement represented an "unconstitutional state of affairs." This decision, known by its file number T-025, effectively gave the Court jurisdiction over Colombia's public policy towards IDPs at a time when the government was unfriendly to human rights claims. It also initiated a process in which the domestic and international human rights networks were able to categorically commit Colombia to the emerging IDP regime. Finally, it helped to establish effective mechanisms with which to monitor and challenge the state, effectively forcing Colombia to move beyond rhetorical commitment and into action.

The Court's innovative intervention has been hailed as a model for judicial advocacy on behalf of IDPs around the world. It was also an essential step in the development of Colombia's increased commitment to the IDP regime. This section will examine the factors that made T-025 possible and what accounted for its success.

Table 10: Phase II: Timeline of Events

Year	Event
1997	Constitutional Court issues decision T-227 on behalf of the IDPs from Hacienda Bellacruz. The decision takes note of the GP and RSG's recommendations. IDPs identify Court as key ally prompting a deluge of "tutelas"
1998	Andres Pastrana Arango elected President of Colombia
	Pastrana's government engages in a failed round of peace talks with the FARC, granting the rebels a safe haven the size of Switzerland that gave them time to regroup and rearm
1999	RSG Francis Deng conducts follow-up visit to Colombia. His report notes deficiencies in the implementation of Law 387
2000	Plan Colombia signed. Originally designed as a "Marshall Plan" for Colombia. Over several years Colombia receives over $5.4 billion in aid, primarily to combat the narcotics trade, and hundreds of civilian advisors. This quickly makes Colombia the 3rd largest recipient of US aid
2001	Organization *Víctimas Visibles* is founded in Colombia inspired by a successful victims' movement in Spain and begins to push for the institution of a victims' law in Colombia
2002	Humanitarian situation deteriorates significantly, peaking in 2002, with 442,553 new displacements following the breakdown of negotiations with the FARC in the Caguán
	Alvaro Uribe Velez is elected President of Colombia after running with the promise of defeating the FARC militarily
	US congress loosens restrictions on Plan Colombia allowing Uribe to finance a robust counter-insurgency campaign
	Uribe initiates a military buildup and an all-out offensive against the insurgency
2004	Uribe begins demobilization negotiations with Paramilitaries (AUC) until 2006
	Constitutional Court issues decision T-025 declaring Colombia to be in an "unconstitutional state of affairs." From 2004-2010 the Court subsequently issues 84 follow-up awards ("autos") and conducts 14 public hearings to evaluate the Colombian government's response and dictate new orders of protection for IDPs.

BACKGROUND TO T-025

By 1999 it was obvious that the Colombian's landmark legislation on internal displacement was not being properly implemented. Law 387, together with the two CONPES documents, did not constitute an enforceable public policy. To many observers this amounted to little more than a set of empty promises. According to the Director of CODHES, Marco Romero, Colombia's public policy towards IDPs prior to the Constitutional Court's intervention was "absolutely precarious." The Samper administration had certainly taken an important step forward by recognizing internal displacement as a serious problem, but the government's policy amounted to little more than partial attention to humanitarian assistance. A member of the National Planning Commission charged with internal displacement even recognized that "the issue of displacement carried little transcendence" and that "… it was just one more issue for National Planning." His Commission did not view the CONPES documents that outlined the government's official policy as binding and the government's inter-agency committee charged with implementing them (the CNAIPD) almost never met (Rodríguez Garavito & Rodríguez Franco, 2010). [126]

The government's very own studies, although few and fragmented, recognized that Colombia's policy's effect on displacement had been dismal. Studies conducted by the government's social assistance agency (*Red de Solidaridad Social* - RSS) reported that, between January 2000 and June 2001, 61% of the displaced population had not received any type of aid from the government and that only 30% of IDPs displaced individually or in small groups had received any government assistance. Between 1998 and 2002, only 43% of displaced families registered by the RSS had received emergency

[126] The National Council for Integral Attention to the Displaced Population (CNAIPD) was a joint commission integrated by the Presidency, Accíon Social, and the various government ministries involved in the protection of IDPs.

humanitarian assistance. During that same period the government's housing program for IDPs was able to meet a very small fraction (11.4%) of its intended target (Rodríguez Garavito & Rodríguez Franco, 2010).

After conducting a follow-up visit to Colombia in 1999, Francis Deng's report commended the Colombian government for instituting a comprehensive legal framework to address its displacement crisis but also noted that the government's response fell seriously short in the area of implementation. He observed that in practice, the national system for responding to forced displacement had been slow to take shape and was plagued by problems. Primarily, the central and local institutional responsibilities had not been fully assumed, technical and financial resources were inadequate, and there was a notable lack of coordination among government institutions (Deng, 2000). Deng suggested that many of these problems possibly stemmed from the fact that the law had not been properly regulated and lacked the necessary specificity. However, he also faulted an "insufficient will or determination on the part of the Government to put its laws into practice." In order to address this problem he called for the development of a "comprehensive strategy that would clarify the central role of the State and integrate the supplementary work of other actors, non-governmental and intergovernmental alike" (Deng, 2000).

Although the RSG's follow-up visit to Colombia in 1999 received a significantly higher profile than his first visit in 1994, Deng's report failed to provoke an immediate governmental response. It did, however, succeed in galvanizing domestic advocacy organizations to refocus their attention this time around the application of the *UN Guiding Principles* in Colombia and the implementation of the RSG's specific list of recommendations.

DETERIORATION OF HUMANITARIAN SITUATION IN COLOMBIA

During the five years following the institution of Law 387, the humanitarian situation in Colombia deteriorated significantly with a dramatic increase in displacement, resulting from the government's failed negotiations with the FARC and intensification of paramilitary activity. Samper's successor, Andrés Pastrana, came to power in 1998 with the promise of putting an end to Colombia's half a century-long war by negotiating a peace treaty with the FARC. The peace process began with the creation of a demilitarized zone, which was roughly the size of Switzerland (16,000 square miles), in the jungle region of El Caguán, in order to facilitate the dialogue. The FARC, however, took advantage of this safe-haven zone that became known colloquially as "Farclandia" and which the FARC ruled as the *de facto* government, to increase its kidnapping and drug trafficking activities. Although the de-militarized zone was in a sparsely populated region of Colombia, the arrival of the FARC, in it self, prompted a mass exodus of peasants from the area.

During the course of the negotiations, in which the agenda did not expressly include internal displacement (Deng, 2000), it soon became evident that neither party really intended to sign a peace deal. According to several experts interviewed, both parties negotiated in bad faith and took advantage of a cessation in hostilities to regroup and strengthen their ranks. In January 2002 Pastrana called off peace negotiations after the FARC kidnapped a number of high profile government officials, and launched an attack on the de-militarized zone.[127]

Following the breakdown of negotiations with the FARC, the rate of internal displacement skyrocketed, peaking in 2002, according to both government and NGO estimates. In 2002 alone there were an estimated 412,553 new cases of displacements

[127] Associated Press. *Colombia's Pres. Ends Peace Process*. 1/13/02.

(Rodríguez Garavito & Rodríguez Franco, 2010). The breakdown in negotiations in the Caguán, between 2000 and 2002, was accompanied by an increase in guerilla attacks and a tremendous expansion by paramilitary groups. By the time Pastrana left office in 2002, 85% of Colombia's municipalities had been affected by displacement as a result of conflict.[128]

SOCIAL MOBILIZATION

Betrayed by the government's failure to follow-up on its commitments laid out in Law 387, frustrated by a myriad of procedural and bureaucratic obstacles placed before them in order to obtain assistance, and faced with a growing humanitarian crisis, Colombia's IDPs became more vocal and coordinated in demanding that the government take action. In the early 2000s, IDPs increasingly began to organize mass demonstrations and the occupation of institutional buildings. They also began to use various domestic legal means at their disposal to claim their rights and the fulfillment of the governments' obligations under the 1997 law.

The mass occupation of government and international agency buildings by IDPs were certainly nothing new. In 1996 a group of IDPs displaced by paramilitaries from Hacienda Bellacruz, on the Atlantic Coast, occupied the offices of the government's agrarian reform agency (INCORA) and the Ombudsman in Bogotá for seven months. This group eventually agreed to be resettled by the government and was granted land in another region of the country. After 1997, however, the number of organized occupations increased. In 1998 Bogotá alone saw 12 separate organized occupations of

[128] See: *El Tiempo*; "Colombia alcanza tasa record de desplazamiento" April 29, 2003; quoted in Rodríguez Garavito & Rodríguez Franco (2010).

government buildings by groups of IDPs lasting anywhere between a day and three months.[129] Beginning in December 1999, a group of approximately 500 displaced families occupied the headquarters of the International Committee of the Red Cross (ICRC) in an exclusive and fashionable neighborhood of Bogotá for over a year. By early 2000, the Colombian press reported 26 instances of public protests by IDP groups (Osorio Péres, 2001).

Conscious that Colombia's new law now recognized certain rights for the displaced, IDPs acted both individually and collectively and began making use of a Colombian judicial procedure known as "*acción de tutela*" (writ of protection) to demand that courts issue special protective orders to secure their fundamental and constitutional rights. The *acción de tutela* was one of several constitutional mechanisms put in place by Colombia's 1991 Constitution to ensure the effective exercise of human rights. The *tutela* is essentially a petition procedure, which enables any person whose fundamental constitutional rights are being threatened or violated to request judicial protection of their fundamental rights. The process begins when an individual or a group of citizens files an informal claim before a judge without the need of an attorney. That judge is then legally bound to give priority attention to the request over other cases. The judge has a strict deadline of ten days to reach a decision and, when appropriate, issue a mandatory and immediate order for the adoption of measures to protect threatened fundamental rights. All *tutela* judgments can be reviewed by the Constitutional Court, which usually selects those it considers necessary to correct or which it considers pertinent for the development of constitutional law. The use of this mechanism became increasingly widespread,

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[129] See GAD *Informe sobre desplazamiento Interno en Colombia* en 1998. 1998 Publication, Bototá. Quoted in Osorio (2001).

beginning in the late 1990s, as a strategy by human rights activists and labor leaders seeking to protect individuals and communities under imminent threat (Cepeda Espinosa, 2009).

It is hard to say what exactly spurred the wave of *tutela* petitions by IDPs during this period. IDPs and human rights activists, frustrated by an unresponsive government, may have concluded that a judicial strategy was perhaps their best option.[130] In 1997 a well-publicized Constitutional Court decision (T-227) on behalf of a peasant community displaced from Hacienda Bellacruz identified the Court as a potentially powerful ally in the fight for the rights of IDPs. This legal victory certainly encouraged IDPs and advocates to make liberal use of *tutelas*.

In February 1996 a group of heavily armed paramilitaries aided by Colombian security forces displaced 2,000 people from lands these peasants had been occupying for over a decade in Hacienda Bellacruz, located in the northeastern the Department of Cesar. This agriculturally rich area had long been a hot-bed of guerilla activity and more recently had become a base for paramilitaries. An investigation by Colombia's Attorney General's Office did not result in any actions. In fact, the affected population continued to receive threats from the paramilitaries and over thirty of their community leaders were murdered. This case gained much notoriety in part because the disputed land allegedly belonged to the family of a friend and political ally of then President Samper, Carlos Arturo Marulanda, whom at the time was serving as Colombia's Ambassador to Belgium and Luxembourg.[131]

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130 These groups included most notably The Colombian Commission of Jurists (CCJ), GAD, and the José Alvear Restrepo Lawyers Collective.

131 Amnesty International, *Colombia: Hacienda Bellacruz: Land, violence and paramilitary power*, 1 February 1997, AMR 23/006/1997. (http://www.refworld.org/docid/45b899242.html).

That same year (1996) the Colombian government temporarily resettled a group of IDPs displaced from Hacienda Bellacruz in the Department of Cundinamarca, in central Colombia. Their resettlement, however, was plagued by difficulties mostly because the Governor of Cundinamarca and various municipal authorities opposed the influx of IDPs, whom they viewed as a threat to public order and suspected of being guerilla sympathizers. Following a *tutela* initiated by this group of IDPs the Constitutional Court issued a ruling that determined that the IDPs from Hacienda Bellacruz had indeed been victims of discrimination by the governor of Cundinamarca and 100 mayors who had denied them transitory resettlement and the ability to buy property. The court ordered the municipal authorities to respect the IDP communities' rights to liberty, free transit and human dignity, and forced the governor and mayors to complete formal human rights sensitization classes.[132] The Court's sentence T-227 was also notable in that it quoted Francis Deng, who during his first visit to Colombia had warned that: "refusal to receive IDPs would have grave human rights consequences" (T-227/1997).

This victory prompted a large number of individual *tutela* cases invoking specific fundamental rights (i.e. right to non-discrimination, life, access to health and education services, and so forth). By 2004 Colombia's Constitutional Court had received *tutelas* issued by over one thousand IDP families and had delivered 17 separate decisions protecting IDPs (Arango Rivadeneira, 2009; Rodríguez Garavito & Rodríguez Franco, 2010). The liberal use of this mechanism by the displaced provoked a high regional government official to complain that IDPs had essentially become "*tutela mercenaries*" (Celis, 2009).

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[132] See: Republica de Colombia, Corte Constitucional, Sentencia T-227/97; *El Tiempo*, "Aprendiendo Derechos Humanos, Fotonoticia" 06/07/97; Rodríguez Garavito (2010).

The Court, in various subsequent rulings, increasingly began to issue more general pronouncements noting the government's failure to implement existing laws and sometimes making reference to the newly created *UN Guiding Principles*. In August of 2000, the Court issued a decision in which, aside from ordering a number of specific protective measures in favor of the claimants, highlighted a number of grave deficiencies in the implementation of Law 387 of 1997.[133] The court called on the executive branch to comply with its obligations towards IDPs and on the Public Defender's Office to exercise effective oversight on the matter. It also explicitly urged the government to make specific use of the *UN Guiding Principles* when interpreting existing legislation on internal displacement (SU-1150/2000). In March 2001 (Decision T-327/2001), the Court again urged government functionaries to be cognizant of the *Guiding Principles*. In 2003, while issuing protective measures in favor of an elderly displaced woman the court urged the state: "to promote affirmative action and to offer differential assistance to particularly vulnerable populations," in accordance with international standards.[134] Finally, in 2004, after reviewing hundreds of *tutela* petitions made by IDPs during the previous year the court issued perhaps its most comprehensive and ambitious ruling.

DECISION T-025 OF 2004

With Decision T-025/2004 the Colombian Constitutional Court formally declared that the fundamental rights of the country's IDPs were being disregarded in such a massive, protracted and repeated manner that an "unconstitutional state of affairs" had arisen. The court concluded that this had been the result of fundamental and systemic

[133] These included a lack of coordination between the various state entities and deficient development of state policies in compliance with Law 387 of 1997. See Rodríguez Garavito & Rodríguez Franco (2010).
[134] Constitutional Court Decision T-602/2003 quoted in Rodríguez Garavito & Rodríguez Franco (2010).

failures by the state. The responsibility for this situation did not rest only on the actions and omissions by a number of individual state agencies and functionaries, but more importantly, was a natural consequence of severe structural deficiencies affecting the entirety of the country's internal displacement policy. The court concluded that the two principal factors accounting for the state's incapacity to adequately respond to the needs of the displaced were: (1) the precariousness of the institutional capacity to implement the policy, and (2) the insufficient allocation of funds. [135]

The court went into great detail in explaining how the policy's institutional capacity had been flawed with regards to its design, its implementation and the absence of any follow-up or evaluation mechanisms.[136] The court also established that the resources appropriated for the policy's implementation were grossly inadequate to meet the state's obligations according to the existing legislation – even in light of the state's critical fiscal situation at the time. The court concluded that, as a result of these deficiencies, the state had failed to protect Colombia's IDPs' fundamental rights. These fundamental rights included the right to personal integrity, equality, petition, work, health, social security, education, minimum subsistence income, housing, land protection, return and re-settlement, and the right to a dignified life. The Court pronounced that these rights were being continuously violated on account of "*an unconstitutional state of affairs*."

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[135] Constitutional Court Decision T-025/2004, Section 6; Also see Cepeda Espinosa (2009).

[136] More specifically, the Court concluded that the institutional capacity was hampered by: (1) Its design and codification (i.e. the absence of a comprehensive national plan of action, lack of specific goals, a vague distribution of functions and responsibilities among different state entities, notorious absence of mechanisms for IDP participation, and excessive rigidity of a system designed to provide humanitarian aid); (2) Its implementation, (i.e. lack of concrete actions; deficient or inflexible response to the problem at hand; the generation of unintended negative impacts by some of the tools utilized); and (3) Its follow-up and evaluation mechanisms (i.e. serious problems with the state's existing information systems and total lack of evaluation mechanisms.

By several measures T-025 was a true "macro sentence." Although the Colombian Constitutional Court had previously declared the existence of an "unconstitutional state of affairs" on a number of different occasions in unrelated matters, the Court had never gone to such lengths to challenge and redefine an issue of public policy. According to Rodríguez and Rodríguez (2010) T-025 was unprecedented because of: (1) the large size of the population affected by the decision; (2) the gravity of the human rights violations it proposed to address; (3) the large number of state and social actors involved; and (4) the sheer ambition and duration of the process of court supervised implementation which lasted over a decade.

Setting the sentence aside, the process that followed the T-025 and the court's efforts to monitor the resolution of the "unconstitutional state of affairs" was arguably, to date, the most explicit and systematic attempt ever made to ensure the implementation of a court sentence in Latin America (Rodríguez Garavito & Rodríguez Franco, 2010).

As a result of T-025, Colombia's Constitutional Court was able to effectively maintain jurisdiction over Colombia's policy on internal displacement for almost a decade. In many ways, it came to dictate such policy. The court succeeded in demonstrating exactly how powerful and active it really could be. Between 2004 and 2010 the court issued 84 follow-up awards ("*autos*"), and conducted 14 public hearings to evaluate the government's response and dictate new orders for the protection of IDPs. Various state entities were required to submit periodic reports to the Court describing the manner in which the Court's orders were being fulfilled. At the beginning, the Court's *autos* focused on protecting the fundamental rights of minorities and the most vulnerable

populations (i.e. women, children, persons with disabilities) but eventually the Court's orders began to address more general aspects of the government's policy.[137]

Although Uribe's administration did not directly question the authority of the Court or the legitimacy of its pronouncements, according to several Court attorneys, the administration went to great lengths to sabotage the Court's efforts and to give the impression that it was complying with their orders when in fact it was doing very little.[138] At one point, for example, the administration attempted to overwhelm the poorly staffed Court by flooding it with tens of thousands of pages of documents in response to follow-up requests. The court eventually put an end to this practice by commanding that the government provide them with a joint report with strict a page limit.[139]

In a daring and innovative move the Court enlisted the help of civil society to assist them in monitoring the state's compliance with its orders and in formulating new remedies by creating a civil-society *Follow-up Commission for Public Policies on Internal Displacement* (hereafter "the Follow-up Commission"). This non-partisan Follow-up Commission was composed by academics, IDP leaders, representatives of human rights organizations, and the Catholic Church, and was headed by a respected Colombian economist, Luis Jorge Garay Salamanca. Eventually, with the help of international funding (from, among others: the IOM, USAID and the governments of the Netherlands, Norway and Canada) the Commission began to operate both as a major independent think-tank that gathered and published the most up-to-date reports on the

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[137] Interview with Federico Guzmán Duque (Human Rights Specialist at the IACHR and former attorney with Colombia's Constitutional Court). May 14, 2010. Washington, DC.
[138] Ibid. Interview with Clara Elena Reales (former attorney in Colombia's Constitutional Court). July 10, 2013. Bogotá.
[139] Interview with Federico Guzmán Duque (Human Rights Specialist at the IACHR and former attorney with Colombia's Constitutional Court). May 14, 2010. Washington, DC.

displacement crisis, and as the principal focal point for IDP advocacy. The commission made it increasingly difficult for the government to dismiss the Court's orders. It became the country's leading authority on the issue of displacement, thereby assuring that the court maintained the upper hand in shaping Colombia's public policy on this issue. By 2009, the Court had effectively reformulated the country's IDP policy with regards to income-generation, housing and victims rights and assured that the Follow-up Commission was included in subsequent policy decisions.

It is difficult to say with much certainty whether the Court's involvement with the issue of displacement that resulted from T-025 had any tangible effect on Colombia's displacement crisis and on the lives of its millions of IDPs. During the Uribe administration, Colombia's internal conflict intensified and the size of the displaced population grew at an alarming rate. Although, by most accounts, the overall situation of IDPs did not improve significantly as a direct result of Court's actions, T-025 and subsequent decisions did have profound symbolic effects.[140] Among other things, T-025 raised the issue of displacement in the public agenda. It mobilized civil society and public opinion in an unprecedented way in favor of the rights of IDPs. Finally, T-025 spurred state institutions to attend to the displaced. The Court's involvement assured that IDPs were included in the deliberations of governing bodies (particularly the CNAIPD) and the court through public hearings. It encouraged better coordination between the different state agencies charged with protecting and assisting IDPs. The Court also mobilized the various state oversight authorities such as the Offices of the Controller, the Public Prosecutor, and the Ombudsman and ensured that internal displacement figured in

[140] See in particular Chapter # 8 in Garavito (2010).

their agendas. But perhaps most significantly, it mobilized and empowered civil society in a very effective way by creating the Follow-up Commission.

The Court managed to elevate the issue of internal displacement on the national agenda and to maintain its visibility in a way that direct international pressure and activist mobilization had failed to do. This was a significant achievement given that Colombia's public agenda is crowded and that issues pertaining to the most marginal sectors of the population tend to be forgotten over time, as recognized by the presiding Judge (Cepeda Espinosa, 2009). By establishing effective accountability mechanisms, the Court also tipped the balance of power between the claimants and the state. Legal observers also credit T-025 with having had a sort of "de-blocking" effect on state institutions charged with assisting IDPs. It incentivized the development of basic institutional capacities, such as information gathering, resource appropriation, and the opening of communication channels between the central state and the departmental and local authorities (Rodríguez Garavito & Rodríguez Franco, 2010).

INCORPORATION OF THE UN GUIDING PRINCIPLES INTO T-025

One of the most significant achievements of T-025 is that it explicitly incorporated the *UN Guiding Principles on Internal Displacement,* making its provisions legally binding and carrying the same authority as the Colombian Constitution. The Court was able to do this largely because the Colombian Constitution that came into effect in 1991 contained several articles that establish a strong relationship between international law – particularly international human rights law – and the system of domestic law. Article 93 states that international treaties that have been duly ratified by

Colombia and prohibit their limitation during state of emergency, prevail in the domestic legal system.[141]

Since their creation in 1998, the Guiding Principles, colloquially known in Colombia as "*Los Principios Deng*" after their principal author, had been gaining traction within advocacy and government circles. They were first introduced to the country by the RSG, Francis Deng, during his second visit in 1999 when he used them as the focus point of his dialogues with government and civil society leaders. The visit culminated with Deng's participation in a workshop on the "Application of the applicability of the Guiding Principles in Colombia" which was organized by the Brookings' Project on Internal Displacement, the US Committee for Refugees and the Colombian NGO consortium *Grupo de Apoyo a Desplazados* (GAD). Although the RSG's visit and subsequent report in other ways had failed to provoke an immediate governmental response, they did manage to galvanize domestic advocacy organizations to focus their attention around the application of the Guiding Principles in Colombia.[142] Following Deng's visit, NGOs such as GAD and DIAL (Diálogo Inter-Agencial en Colombia), a consortium of international humanitarian agencies working in Colombia, began to frame the displacement crisis in Colombia in terms of the GP's standards. Various agencies within the Colombian government also began to incorporate the GP in their discussions about the crisis. The Ombudsman Office, for example, included the Principles in its public awareness campaign about internal displacement and the Social Solidarity

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141 Article 93 of the Colombian Constitution of 1991, Quoted in Guzmán Duque (2009).

142 Following the RSG's GAD began disseminating a Spanish language "Guide for the Application of the Guiding Principles" published by Brookings (Guia Pra la Applicación del los Principios Rectores de los Desplazamientos Internos) and DIAL published a first report on the Guiding Principles and Displacement in Colombia (DIAL, 1999). In 2002 the Menonite humanitarian organization MENCOLDES and the Commission of Colombian Jurists published a follow-up report to Deng's recommendations in which it noted serious failures, particularly of the Uribe administration, to comply with the both the Guiding Principles and the RSG's specific recommendations (Fundación Mencoldes & CCJ, 2002).

Network (RSS), the government agency charged by the Pastrana administration with assisting IDPs, included the Principles in its field book titled *Attention to the Population Displaced by Armed Conflict*. At a meeting of the Inter-Agency Standing Committee (IASC), which comprises the heads of the major UN agencies, Colombia's Ambassador to the UN, Alfonso Valdivieso, recognized that the Colombian government had "found these principles to be a useful guide" for their work on displacement.[143]

While the *Guiding Principles* themselves did not constitute treaty law, the Constitutional Court was able to incorporate them into various decisions. They accomplished this by arguing that the GP were largely a compilation of existing legal provisions pertaining to IDP's basic rights, which were found in a number of international treaties and conventions that Colombia had already ratified. In other words, they argued that the Guiding Principles were basically a restatement of pre-existing international obligations that had binding force within the Colombian legal system because of their nature as conventional and customary international law. As such, the court was able to argue that the *Guiding Principles* formed part of the "constitutionality block" – a French inspired legal concept – which allows for all provisions included in human rights treaties to which Colombia is a party (as well as human rights provisions of customary international law) to become mandatory parameters for constitutional review in Colombia. According to Guzman (2009), even though most of the obligations codified in the GP were, in and of themselves, already binding within the Colombian legal system, their incorporation in decision T-025 granted them additional legal strength, reinforcing their significance for the interpretation of the scope of IDP's rights.

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[143] Statement by Francis Deng presented at the *International Seminar on the Evaluation of the Pastrana Government's Policy on Human Rights*, Sept 7, 2000. See: http://www.brookings.edu/research/speeches/2000/09/07humanrights-deng

On previous occasions the court had made reference to certain provisions within the GP in a number of specific cases. However, these judgments had not explicitly incorporated the GP as a whole into the national system of IDP rights.[144] For emphasis, the publication of T-025 included the entire body of the GP as an Annex to the court decision. At a conference in Oslo in November 2008 Judge Cepeda explained the usefulness of the Guiding Principles to the Court's efforts:

> *"…the international dimensions of Colombia's humanitarian crisis, and the additional legitimacy given by the Guiding Principles to the orders issued by the Court, as well as other domestic factors, have been pivotal for generating acceptance of our decisions."*

He also added that:

> *…during the follow up process, the Guiding Principles were a source of legitimacy for increased judicial intervention regarding the protection of IDPs. This had been a crucial function of the Guiding Principles that gave sustainability to innovative judicial interventions. It also gave solid basis for the oversight of independent governmental agencies when they criticized the government for not meeting international benchmarks as applied by the Court."*[145]

Over the following years, the Guiding Principles were not only to become the Court's key interpretative criteria for establishing the scope of IDP's rights, but were also used as guidelines in determining the scope of State authorities' duties and obligations

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144 See in particular SU -1150/ 2000 and T-327/2001 in which the court examined the situation of IDPs who had been denied inclusion in the official registration system because of lack of proper documentation and urged the State to incorporate the GP in their dealings with IDPs and prompted State authorities to train public officials charged with registering IDPs about the content of the GP. The court again made several references to the GP in decision T-098 in 2002 regarding the provision of special assistance to minority ethnic groups.

145 Manuel José Cepeda-Espinosa, Constitutional Court of Colombia, "The Judicial Protection of IDPs in Colombia: The Importance of the Guiding Principles," statement presented at the conference "Ten Years of the Guiding Principles on Internal Displacement," Oslo, Norway, 16 October 2008.

towards IDPs.[146] As such the court used the GP to develop a set of concrete indicators to measure the "effective enjoyment of IDP's fundamental rights" to be used by the *Follow-up Commission* to monitor the states' response to T-025 and subsequent orders. The GP were subsequently adopted by Colombia's controlling agencies (notably the Public Prosecutor's Office and the Office of the Ombudsman) as criteria with which to evaluate the State's response to IDPs (Guzmán Duque, 2009).

The explicit incorporation of the UN Guiding Principles into Colombia's "Constitutionality Block" provided a tremendous boost to the international regime to protect IDPs. It was a major step in the transformation of these soft laws into biding customary international law. Aware of this, Brookings' Project on Internal Displacement, for example, publicized T-025 and the Colombian court's intervention as a model of judicial protection for IDPs. Brookings translated into English and published the full text of T-025 and subsequent rulings. The author of the decision, Judge José Manuel Cepeda Espinosa, became a sort of champion in international humanitarian circles and was invited to speak in Washington and Oslo.

Why and how was Colombia's Constitutional Court able to act so audaciously in 2004 in challenging a very popular administration? Why did its pronouncements carry so much weight? How was it able to effectively gain jurisdiction over a significant portion of the government's budget and policy agenda? After all, the Constitutional Court was a relatively new institution in Colombia (having only been in existence for a little over a decade) with very limited recourses and few real powers.

Certainly the 1991 Constitution endowed Colombia with a number of unique institutions, which arguable made the country more receptive to international norms –

[146] Interview with Federico Guzmán Duque (Human Rights Specialist at the IACHR and former attorney with Colombia's Constitutional Court). May 14, 2010. Washington, DC.

and human rights norms in particular. Among other things, The 1991 Constitution created a robust (at least on paper) Constitutional Court; an ombudsman to serve as a UN recognized national human rights institution (NHRI); and instituted the *tutela* petition procedure. The new constitution also reaffirmed the country's commitment to international law by enshrining the principle, in Article 93, that international treaties and the pronouncements of international human rights bodies made part of the "constitutional block." Arguably, Colombia's domestic institutional make-up placed its judiciary in a unique position to push through a human rights agenda and hold the government accountable for violations, which to some extent it did since its inception in 1992. Nevertheless, it took many years for the Constitutional Court to fully assume these powers and to act as forcefully as it did when addressing displacement in the mid-2000s. This is not surprising because, as a former Court judge admitted, in practice the Constitutional Court had very few tools at its disposal. The Court derived most of its power from its institutional legitimacy and from the tools it could harness internationally.[147]

While the chain of events that led to the court's involvement with the issue of displacement are largely domestic, the court's intervention can only be fully understood within the context of the "internationalization" of the Colombian conflict during the first decade of the 21st Century. The international attention generated by the conflict's intensification, its humanitarian spillover across borders, and the increased involvement of the US through Plan Colombia had important effects on the Court. These developments empowered the Court to infringe upon territory of the other branches of government. The Court essentially dictated public policy. It increased the resonance of

[147] Interview with Clara Elena Reales (former attorney in Colombia's Constitutional Court). July 10, 2013. Bogotá.

international norms in Colombia and forced the Uribe administration, largely hostile to human rights claims, to take the court's decisions much more seriously.

THE INTERNATIONALIZATION OF THE COLOMBIAN CRISIS

By the early 2000s Colombia's conflict began to truly attain international dimensions. This occurred on several fronts. Following the breakdown of peace negotiations between the Pastrana administration (1998-2002) and the FARC, the conflict intensified and began to spill over across Colombia's borders. A CODHES study published in 2000, for example, estimated that approximately 12,000 Colombians had crossed the border into Ecuador, Panama and Venezuela to escape violence in 1999 (CODHES, 2000). Cross-border incursions by guerillas and Colombian security forces also become more frequent as guerillas searched for safehavens in neighboring countries and the army pursued them across borders. Regional actors also began to frame Colombia's conflict as a threat to regional stability and its humanitarian crisis as a grave matter of regional concern. Not surprisingly, the conflict generated increased regional attention and subjected Colombia to the intense scrutiny of an Inter-American Human Rights System, which became a key ally of the Court.

With the infusion of economic and military aid through Plan Colombia the crisis in Colombia also became a subject of international debate and of intense lobbying efforts within foreign governments and inter-governmental intuitions. The Colombian government's human rights record came under unprecedented international scrutiny, particularly in Washington, where the US Congress had to approve the Plan Colombia aid package and had begun debating a free trade agreement with Colombia (FTA). Opportunities to link human rights issues to foreign assistance and trade galvanized

INGOs around the issue of Colombia and spurred a strengthening of the ties between Colombian activists and trans-national human rights networks (including friendly governments ready to fund their efforts).

International Pressure: Plan Colombia

Originally conceived as a sort of "Marshall Plan" for Colombia, Plan Colombia was proposed by President Pastrana (1998-2002) as a broad aid package with the objective of ending the internal armed conflict in Colombia and devising an effective anti-narcotics strategy. The initial plan called for a budget of US$7.5 billion, with most of the aid dedicated to institutional and social development and economic revitalization. After negotiations with the Clinton Administration the plan morphed into one that heavily emphasized the counter-narcotics component. In 2000, the US Congress authorized a $1.2 billion aid package. The US Congress further extended aid to Colombia to more than $5.4 billion in yearly appropriations and committed hundreds of military and civilian personnel to train local forces and assist in Colombia's campaign to eradicate the narcotics trade. At the time, these appropriations made Colombia the third largest recipient of foreign aid from the United States, stimulating significant debates in Colombia, the US and the region, particularly in bordering countries (Ecuador, Peru and Brazil) and in Europe over US intervention in the hemisphere (Osorio Péres, 2001). Colombia also sought additional support from the European Union and other countries to finance the social component of the plan but this amounted to very little.

Although Plan Colombia offered a wide number of programs aimed at strengthening democracy and governance, most of the aid was designed for drug field fumigation efforts and military assistance (Tate, 2009). Plan Colombia signaled a

significant shift in US policy towards Colombia because of its significant size and also because it made the Colombian army, rather than the national police, the US' primary operational partner (Crandall, 2002). As Pastrana abandoned efforts to negotiate a peace treaty with the FARC, US funds were increasingly diverted to finance an all-out assault on the insurgents. Not surprisingly, this in turn generated enormous international attention to Colombia.

The Shadow of the Civil Wars in Central America

Fearing a reenactment of American intervention in the civil wars in Central America, which resulted in egregious human rights abuses, the international human rights community began to mobilize against Plan Colombia. In fact, the debacle in Central America became the lens through which many international observers sought to understand the conflict in Colombia and the increased US involvement. Although there were key differences between the Colombian conflict and the wars in Central America and the Colombian international solidarity movement never reached the same dimensions as the Central American campaigns, the tragedy of the 1980s provided a powerful imagery with which to frame the humanitarian situation in Colombia.

During the 1980s, the Reagan Administration funneled billions of dollars to the Salvadorian military and the Nicaraguan Contra-Sandinista forces, despite their appalling record of human rights abuses. This period resulted in the mobilization of thousands of Americans around college campuses and in Washington and launched a successful campaign in Congress to extricate the US military from Central America.

According to Tate (2009), the majority of Americans approached the issue of human rights in Colombia with the Central American peace movement as their primary reference point. This was not surprising since many of the Latin American human rights

lobbying organizations emerged out of the Central American experience. In many ways, the battles over US involvement in El Salvador and Nicaragua shaped their identities and their repertoire of activist practices. The *Latin American Working Group* (LAWG), a coalition of faith-based humanitarian and solidarity organizations that led the Colombian human rights campaign in Washington, was originally founded in 1983 as the *Central American Working Group*, and until the early 1990s had focused exclusively on mobilizing civil activism in opposition to US security policy in Central America.

At first glance, the debates over US policy in Colombia shared many similarities with its policy towards El Salvador in the 1980s. In both cases the US was strengthening an abusive military with a well-publicized history of collusion with paramilitary forces and taking sides against a long running Marxist insurgency. However, as pointed out by Tate (2009), there existed a number of key differences with Colombia which made mobilizing public support much more difficult. Public concern with the Latin American region and with issues of human rights diminished significantly after the end of the Cold War and particularly after 9/11. The conflict in Colombia was also made infinitely more complex because of the anti-narcotics component. In Congress it was almost impossible to criticize US counter-narcotics policy. Some even described it as a bi-partisan "third rail" issue on which no American legislator wanted the appearance of being "soft on drugs."[148] Americans also harbored very little sympathy for the FARC – an organization involved in drug trafficking, with a terrible human rights record, which had taken Americans hostage. Colombia also had very little historical connection with the US. There were very few Colombian refugees living in the US, which meant that

[148] See Bertram et al. 1996; Boyum and Reuter 2005; Massing 1998 (all quoted by in Tate 2009). Tate quotes Congressman Jim McGovern (D-MA), one of Plan Colombia's most important critics, recalling the Republican's attitude with regards to this issue: "[Speaker of the House Dennis] Haster's attitude on the war on drugs was: 'give me what I want or you are going to face a 30 second campaign ad in your district saying that you are soft on drugs, that you don't want to stop drugs that are coming from Colombia into your district."

Washington-based NGOs were never quite able to replicate the same deep ties they enjoyed with Central American groups.

While most human rights advocates opposed any sort of American involvement in Colombia, others activists who recognized that mobilizing public opinion around the case of Colombia was going to be more difficult, took a more pragmatic approach. Organizations such as Human Rights Watch saw the plan as an opportunity to strengthen the rule of law in Colombia, to force the Colombian military to sever links with the paramilitaries and to maintain pressure on Colombia by placing stringent human rights conditions on the aid package. In their view, working within the framework of the aid package was ultimately the best way they could engage in efforts to control the damage of an inevitable intensification of the armed conflict. In a public hearing before the House of Representatives' Western Hemispheric Affairs Committee in 2000 José Miguel Vivanco, Director of the Americas Division of Human Rights Watch, asserted that his organization "*Remain[ed] convinced that the most important way that the United States [could] contribute to improving human rights protections in Colombia [was] to enforce strict conditions on all military aid….*" Among other things, these conditions were meant to fight impunity by forcing Colombia's leaders to try cases involving alleged human rights abuses by members of the armed forces in civilian rather than in military courts and requiring Colombia to combat illegal paramilitary groups—*"a goal that would greatly fortify democracy."*[149]

Concerns with Plan Colombia were amplified when it became clear that Pastrana's successor, Alvaro Uribe, intended to utilize the military aid primarily to combat the guerillas, which he accused of participating in narcotics trafficking. In 2002

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[149] José Miguel Vivanco, Congressional Testimony, September 21, 2000. Serial No. 106-188)

the US Congress loosened the restrictions on the aid package "[r]ecognizing that terrorism and the illicit narcotics trade in Colombia [were] inextricably linked…" so as to allow Uribe to finance a robust anti-insurgency campaign.[150] Another major concern of human rights groups was that the Plan's anti-narcotic efforts would directly result in the displacement of thousands of Colombian farmers through the aggressive spraying of defoliants to destroy illicit crops. The framers of the plan originally estimated that approximately 30,000 would be displaced as a direct result of fumigation. Human rights observers have argued that the actual number is much higher.[151]

Organizations such as the Washington Office on Latin America (WOLA) and the Latin American Working Group (LAWG) took their fight to US Congress and State Department and in doing so become key allies of Colombia's Constitutional Court. These progressive human rights INGOs functioned in a loose coalition known as the Colombia Steering Committee (CSC). Founded in 1998 and chaired by the LAWG and the US Office on Colombia, the CSC included more than 30 organizations.[152] For several years the CSC organized teach-ins on college campuses, letter writing campaigns to US

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150 See US Embassy in Bogotá, *Plan Colombia*, (http://bogota.usembassy.gov/plancolombia.html)

151 Interview with Gimena Sánchez-Garzoli (WOLA; formerly at Brookings' IDP Project). March 28, 2013.

152 The member organizations of the Colombia Steering Committee include: the American Friends Service Committee, Americans for Democratic Action, Catholic Relief Services, the Center for Justice and International law (CEJIL), the Center for International Policy, Church World Service, the Due Process of Law Foundation, the Federation of American Scientists, the Franciscan Washington Office on Latin America, the Friends Committee on National Legislation, Global Exchange, Institute for Policy Studies, International Labor Rights Fund, Jesuit Refugee Services, Latin America Working Group, Lutheran Immigration and Refugee Services, Lutheran Office for Government Affairs, Lutheran World Relief, Maryknoll Office on Global Concerns, Mennonite Central Committee, Peace Brigades International - Colombia Project, RFK Memorial Center for Human Rights, U.S. Committee for Refugees, U.S./Labor Education in the Americas Project, Washington Office on Latin America, Witness for Peace, World Vision, Amnesty International, Colombia Human Rights Committee/Network DC, Presbyterian Church USA Washington Office National Ministries Division, and Christian Aid. (List found at the U.S. Office on Colombia website, http://www.usofficeoncolombia.com/USOC%20Partners/, accessed April 18, 2008) Quoted in (Tate, 2009).

legislators, witnessing trips to Colombia, brought Colombian activists to speak in the US, and directly lobbied US legislators on Capitol Hill.

Lobbying efforts in the US eventually succeeded in convincing a small group of US legislators to take on their cause. Among these the most prominent were Sen. Patrick Leahy (D-VT); Sen. Chris Dodd (D-CT); Rep Sam Farr (D-CA), and Rep. Jim McGovern (D-MA). Within the US House of Representatives both Farr and McGovern became big champions of Colombia's human rights movement. While Farr had served as a Peace Corps Volunteer in Colombia during in the 1960s and had a "soft spot" for the country, McGovern had experienced firsthand the fiasco in Central America. As a congressional aid in the 1980s McGovern had traveled to El Salvador to investigate the impact of US military assistance and worked on the congressional commission that investigated the murder of four Jesuit priests and a few other people by an elite squad of US trained soldiers in 1989 (Tate, 2009).

In June 2005 Rep McGovern pushed an amendment to cut $100 million from Plan Colombia on the basis that the military aid package was imbalanced and had disastrous human rights consequences. Although the amendment co-sponsored by Representatives Betty McCollum (D-MN) and Dennis Moore (D-KS) was eventually defeated, the Senate's subsequent appropriation bill shifted $25 million from anti-narcotic aid to the development and human rights protection component of the package.[153] When the Democrats regained control of Congress in 2008, the development and human rights promotion elements of Plan Colombia grew significantly.

Over time, Colombian human rights lobbying efforts succeeded in beefing up the civilian component of the aid package. Eventually, it included a number of human rights

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153 See: Latin American Working Group. "House Votes Down Military Aid Cut to Colombia" (http://www.lawg.org/component/content/article/76/212).

provisions. Among these was the *Leahy Provision,* which specified that the US Congress could withhold between 25% and 30% of the aid funds, pending a yearly human rights certification process by the US Department of State.[154] Although aid was never withheld, it was delayed on a couple of occasions. These conditions evolved during the years to include issues of accountability (to investigate and prosecute human rights violations), the de-linking of the armed forces from the paramilitaries, and the respect for the rights and territory of indigenous peoples. Also written into the law was the requirement that the Department of State meet several times (at least twice) a year with human rights organizations on these issues. These meetings, which were usually attended by the Assistant Secretary of State for Western Hemispheric Affairs, gave Colombian and international NGOs an opportunity to raise their concerns about the internal displacement crisis with the US government and call attention to Colombia's Constitutional Court's intervention in the matter.

Military assistance to Colombia also resulted in and became subject to the Leahy Law. This amendment to the US Foreign Assistance Act of 1961, which is different from the later Leahy Provision to Plan Colombia, passed in 1996 as a result of growing congressional preoccupations with counter-narcotics assistance. The Leahy Law was spurred by an investigative press report that showed that a number of Colombian military units responsible for well-documented human rights abuses had in the past received US assistance.[155] Even though, as argued by a number of human rights activists, the law's

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154 This should not be confused with the Leahy Amendment to the Foreign Assistance Act of 1961, which obligates the US State Department to withhold military assistance from any individual, or unit accused of human rights violations and proscribes an elaborate vetting process before aid is disbursed.

155 The bill was originally intended to apply to counter-narcotics assistance for a year but was later expanded to cover all State Department funded assistance to all countries. See Public Law 104-208, 104th Congress (http://www.treasury.gov/resource-center/sanctions/Documents/pl104_208.pdf). According to Tate (2009) Amnesty International worked together with Leahy's staff to draft the original law.

provisions were interpreted and applied rather restrictively and that there were a number of loopholes, the Leahy Amendment arguably made a difference in Colombia. Primarily it sent a very important message to Colombian and US policy-makers that "human rights were important to US Congress," (Tate, 2009) and provided human rights groups with some real leverage with which to pressure both governments.

When Plan Colombia was approved in 2000, the legislation included a number of additional human rights conditions. Many of these focused principally on severing the links between the military and the paramilitary groups. Some measures required, for example, the State Department to certify that Colombian soldiers accused of human rights violations were tried in civilian courts and suspended from duty pending the investigation, and that the security forces were cooperating with the Colombian judiciary.

During the first year of the plan's implementation, the Clinton Administration waived the conditions on national security grounds. George W. Bush subsequently certified Colombia over the objections of human rights groups. Despite the failure of the conditions to impact the disbursement of aid activists have argued that it achieved several key goals. It kept the debate over issues of human rights in Colombia active. It added legitimacy and visibility to claims made by Colombian human rights organizations. Finally, it incentivized the Colombian government to take action on specific cases to justify the annual certification (Tate, 2009).

While it is not entirely clear that human rights lobbying efforts in the US had a direct and significant impact on Colombia's human rights record, it arguably emboldened human rights activists in Colombia and arguably provided Colombia's Constitutional

Court and the Inter-American Human Rights Court with more leverage over Colombia's security policy than they otherwise would have had.[156]

According to a number of activists and observers interviewed, the Colombian government was also very responsive to the increasing international scrutiny into its human rights record. The Colombian government, in fact, was significantly more sensitive to international criticism than the governments of Central America, or for that matter most countries in Latin America, ever were. The government of Colombia would often mount elaborate responses to allegations of human rights abuses and go to great lengths to project at least the appearance of compliance.[157]

Country observers and human rights experts have offered a number of explanations for why Colombia is so sensitive to international criticism and protective of its international image. Some point to the fact that Colombia has a strong democratic tradition. Despite cycles of great violence, Colombia is one of the oldest, continuous democracies in the hemisphere. Unlike most countries in the region, Colombia has succeeded in holding regular elections and has been ruled by civilians, except for a very brief period (1953-1957) following La Violencia. This image, in a way, is deeply ingrained in the national psyche and Colombians go to great lengths to set themselves apart from other fragile states. Some observers also point to Colombia's intense legalistic tradition, which has often proven to be an encumbrance to the country's democracy, and

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[156] Interview with Clara Elena Reales (former attorney in Colombia's Constitutional Court). July 10, 2013. Bogotá.

[157] Telephone interview with Jeff Drumtra ((Policy Advisor, US Department of State's Bureau of Population, Refugees, and Migration, Office of Policy and Resource Planning). March 8, 2012. Interview with Olivia Franken (Colombia Desk Officer, US Department of State). June 7, 2013. Washington, DC. Interview with Denise Gilman (former Staff Attorney at IACHR). February 15, 2013. Austin, TX. Interview with Ariel Dulitzky (former Assistant Executive Secretary at IACHR). April 27, 2013. Austin, TX. Interview with Federico Guzmán Duque (Human Rights Specialist at the IACHR and former attorney with Colombia's Constitutional Court). May 14, 2010. Washington, DC. Interview with Lisa Haugaard (Executive Director of the Latin America Working Group on –LAWG). June 5, 2013. Washington, DC.

to the particularities of the 1991 Constitution, which raised the stature of Colombia's international legal commitments and international law in general.[158] Finally, some point to Colombia's development agenda, which is highly dependent on the prospects of greater economic integration with Europe and North America.

Whereas no single explanation can account for this national trait, it is possible that a combination of these factors, over time, has made Colombia more sensitive than its neighbors to international criticism. Although there is little agreement for why this is the case, or even whether Colombia's response reflected genuine political will to improve human rights conditions, it is clear that the process of international contestation progressively subjected the Colombian government to a sort of rhetorical entrapment on the issue of human rights, which made it increasingly difficult to ignore the issue.

As the moral language of human rights gradually crept into the Colombian governments' official discourse in response to international appeals, the Constitutional Court and domestic activists were better able to hold the Colombian government to account. Constructivists see this phenomenon of rhetorical entrapment as a positive and necessary step in the life-cycle of international norm diffusion.[159] This dynamic took place not only through bilateral discussion with the US but also in international forums such as the UN Human Rights Commission, the Inter-American Human Commission, and the OAS General Assembly.

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[158] See: *The Economist*. "Bello: Legalism vs. Democracy." March 29, 2014. (http://www.economist.com/news/americas/21599779-nobody-colombia-comes-out-well-petro-affair-legalism-v-democracy)

[159] In the introduction to their edited volume (Risse, Ropp & Sikkink 1999) Risse & Sikkink describe the process by which governments initially become involved in the moral discourse for instrumental reasons. According to Beth Simons, repressive governments tend to engage, rather than evade, human rights naming and shaming and become rhetorically entrapped because they miscalculate the effects of doing so or because they are offered material inducements, such as foreign aid, to make concessions. (See Beth A. Simmons, *From Ratification to Compliance: Quantitative Evidence on the Spiral Model*, in Risse, Ropp & Sikkink 2013).

Activists also point to a number of concrete victories that resulted from international lobbying efforts. These included the implementation of special protective measures for the displaced communities of Curbaradó and Jiguamiandó as ordered by the Inter-American Court and the abolition of military practices that lead to the "*false-positives*" scandal.[160] Organizations in Washington worked, for example, on a resolution calling for 2007 to be named the year of IDPs. In 2010, they campaigned to pass a symbolic resolution (1224) in Congress to support Afro-Colombian and indigenous IDPs.[161] Washington-based NGOs also hosted various delegations of Colombian NGOs and facilitated their meeting with US lawmakers. In this sense, lobbying in Washington succeeded in maintaining an international spotlight on the human rights and displacement crisis in Colombia, which may have emboldened the Court. Most significantly, however, at the request of Colombian activists (particularly *Coordinación Colombia Europa Estados Unidos*—CCEEU) lobbyists in Washington explicitly insisted on publicizing and pushing for the enforcement and follow-up of Constitutional Court orders.

Plan Colombia may have also contributed to a climate that emboldened Colombia's Constitutional Court by fortifying Colombia's judiciary and human rights institutions. Indeed, as an important counter-weight to the military component of the plan, the US developed a civilian component focused on promoting development and improving governability in Colombia. Initially this type of aid was intended to address the humanitarian crisis and promote alternative development in coca growing regions.

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160 The scandal involved thousands of murders committed by members of the Colombian military who lured poor or mentally handicapped civilians to remote parts of the country with offers of work, killed them, and presented them to authorities as combatants killed in battle, in an effort to inflate body counts and receive promotions or other benefits. (See: http://news.bbc.co.uk/2/hi/americas/8038399.stm)

161 Interview with Lisa Haugaard (Executive Director of the Latin America Working Group on –LAWG). June 5, 2013. Washington, DC.

However, the package soon expanded to include measures to fortify civilian state institutions and consolidate the presence of the state in most of the national territory. Both of these were seen as key to winning the conflict. At first the US mission in Bogotá financed the work of international agencies such as the International Organization for Migration (IOM) and the Pan-American Development Fund's (PADF). Over time, however, Plan Colombia's civilian component grew and deepened to the point where the US mission personnel became actively involved in drafting public policies and procedures.[162]

Plan Colombia led to palpable improvements to Colombia's governance institutions. In order to combat the problem of impunity the US funded a complete overhaul of the country's judicial system. This included its transformation from a mixed justice system (with elements from both the adversarial and inquisitorial systems), in which the courts were involved in investigating the facts of the case, to an exclusively adversarial system where the role of the courts is principally that of impartial referees between the prosecution and the defense. From 2004 to 2008 Colombia's Attorney General's office received over $150 million US dollars, as well as technical support and assistance.[163] Plan Colombia also contributed significantly to efforts of national consolidation. Beginning in 2007 it helped to fund Uribe's National Consolidation Plan (*Plan Nacional de Consolidación*, PNC), which sought to secure the presence of the state in areas pacified by the armed forces. The objective of the PNC was to establish and

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[162] USAID's mission in Bogotá, which accounted for about five people prior to Plan Colombia, eventually grew to over 100, becoming the largest mission in Latin America after Haiti. USAID viewed its experience in Colombia as such a success that it began using the legal framework as a model for improving governability in other countries. Interview with Angela Suarez & Thea Villate (USAID - Colombia). July 9, 2013. Bogotá.

[163] See: US Office on Colombia. *Impunity in Colombia*. August 2012. (http://www.usofficeoncolombia.org/images-pdfs/Impunity-in-Colombia-web-FINAL.pdf)

retain the presence of state institutions in poor rural areas that tended to fall back to guerilla control after the military had departed. This strategy included efforts to improve access to social services, strengthen local governing institutions, and promote economic development. While the Colombian and US governments consider the PNC to have been a success, some human rights activists have complained that it has led to the militarization of certain regions of the country, which in fact has discouraged IDPs from returning. Even if this were true, by improving the capacity of local government institutions, US funding addressed one of the key obstacles to the implementation of Law 387 and the subsequent Constitutional Court orders.

The civilian component of Plan Colombia also facilitated the intervention of the Court in other ways. For example, the US helped to finance the Ombudsman's office (Defensoria del Pueblo) and funded a program to insert "community defenders" ("defenzores comunitarios") in marginalized and remote communities in frontier regions to act as human rights defenders and observers. Indirectly, Plan Colombia also led to an increase in funding and technical assistance from other countries (i.e. the EU, Switzerland and Japan) that sought to provide a counter-weight to US military spending by supporting Colombia's human rights, humanitarian and academic institutions that were working with IDPs.

It may be argued that an intensification of US-Colombia bilateral relations, which was initiated by Plan Colombia and the countries' cooperation on the war on drugs, opened up international pressure channels that forced Colombia to pay much more attention to its human rights record and its displacement crisis than it otherwise would have.

The Colombian-US alliance, in fact, strengthened during the first decade of the 2000s. One of the reasons was that the US became increasingly isolated in the region as

a wave of left-wing populist and quasi-authoritarian regimes swept the Latin America (beginning with the election of Hugo Chavez in Venezuela in 1998; Evo Morales in Bolivia in 2006; and Rafael Correa in Ecuador in 2007) under the banner of opposing the Washington Consensus and countering American influence.[164]

In 2006, the US and Colombia signed a free trade agreement (FTA), which entered into force in 2012. Confirmation of the agreement, however, stalled in Congress for several years due to concerns of human rights abuses in Colombia.[165] At the time, President Bush was quick to remind the US Congress of the strategic significance of the US-Colombian alliance. In his January 28, 2008 State of the Union speech, President Bush urged Congress to approve the agreement that year warning them that failure to approve the FTA would "embolden the purveyors of false populism in our hemisphere."[166]

It is clear that the debates in the US surrounding Plan Colombia, the FTA and US' friendly relations with Uribe were marred by the specter of America's disastrous involvement in Central America during the 1980s. Within the US Congress, the State Department, and the NGO community it became evident that Americans wanted to avoid the types of abuses that occurred in El Salvador and Guatemala and were willing to use the levers of Plan Colombia and the pending FTA to gently press the Colombian

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164 The Chávez' revolution also inspired a number of new leaders in Latin America: Daniel Ortega (2007–) in Nicaragua; Manuel Zelaya in Honduras (2006–2009) and even President Cristina Fernández de Kirchner in Argentina (2007–) to adopt a "soft-authoritarian" style of governance. See (Castañeda, 2006; Weyland, 2013).

165 These regarded particularly the murder of a number of labor union leaders and alleged connections between US based multinational corporations, such as Dole, Chiquita, Coca-Cola, and Drummond Coal Company and paramilitary forces.

166 See Daniel Griswold and Juan Carlos Hidalgo, A US-Colombia Free Trade Agreement: Strengthening Democracy and Progress in Latin America. Free Trade Bulletin No. 32, CATO Institute (February 6, 2008). (http://www.cato.org/publications/free-trade-bulletin/uscolombia-free-trade-agreement-strengthening-democracy-progress-latin-america#1a)

government into improving its human rights record. In this effort, the US Mission in Bogotá installed a Human Rights Officer to serve as liaison between the US government and the Colombian government's human rights entities and at times as an intermediary between the Colombian government and domestic human rights NGOs.[167]

Although US-Colombian ties were never really strained over the issue of human rights or displacement, the US government did maintain sustained pressure on Colombia to demonstrate improvements on its record. Because the US relied on information provided by trans-national activists, Colombia's Constitutional Court, the Follow-up Commission and the various government human rights entities, the US raised the profile of these entities and indirectly provided them with greater leverage.

As the US Congress began debating the FTA in 2007 and was tasked with certifying the country in accordance with the Leahy Provision of Plan Colombia, a number of INGOs and Colombian IDP groups began to gain significant visibility abroad and greater legitimacy in Colombia. These groups successfully employed a "boomerang" strategy that used international leverage to push through its human rights agenda (Keck & Sikkink, 1998). Although there is some disagreement on whether US involvement, on final account, contributed to an improvement of human rights in Colombia, it is clear that it helped put the issue front and center of Colombia's government's agenda, and at the very least, forced Colombia to give the impression that it was taking its human rights record seriously. During the first decade of the 2000s, US involvement also contributed to a number of concrete achievements. It may be argued that the Leahy Provision helped to accelerate the demobilization of Colombia's paramilitaries.

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[167] Interview with Adam Lenert (Human Rights Officer - US Embassy in Bogotá). July 9, 2013. Bogotá.

Bilateral relations with the US perhaps reached their apex in 2010 when the Obama Administration initiated a series of bilateral summits, which became known as the "High-Level Partnership Dialogues." This forum, first convened in Bogotá in October 2010, brought together Colombia's Foreign Minister, Maria Angela Holguin and U.S. Secretary of State Hillary Clinton. A second round of dialogues was held in Washington in May 2011 and a third one in Bogotá in July 2012. This forum was publicized as a means to facilitate collaboration between the two countries on a broad range of issues (i.e. energy, technology, environmental protection, social opportunities, good governance, and human rights). However, according to a number of US government officers interviewed, the real impetus for this initiative was to engage Colombia more closely on the issue of human rights. To this effect, during the first round of dialogues Deputy Secretary of State James Steinberg and Colombian Vice President Angelino Grazón agreed to track on a monthly basis the progress of important human rights cases in Colombia.

It is important to note that the "internationalization" of the Colombian conflict and the strengthening of US-Colombian bilateral relations took place at a time when the US government began to take the general issue of internal displacement much more seriously than ever before. During the early 2000s US foreign policy began to focus on IDPs in a more systematic way. The US started to take the issue seriously as a result of its experience confronting the challenges posed by internal displacement in the Balkans and Sudan.[168] The RSG and the Brookings' Project on Internal Displacement (PID) also

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168 By the end of 1996 there were an estimated 4 million Sudanese, mostly southerners, internally displaced as a result of two Sudanese civil wars (1955-1972 & 1983-2005), which claimed the lives of more than 1.5 million people (Ruiz, 1998). It is estimated that an additional 2.5 million Sudanese were later displaced as a result of the ethnic cleansing campaign conducted in Darfur beginning in 2003. (See: http://www.unitedhumanrights.org/genocide/genocide-in-sudan.htm)
The wars that followed the breakup of the former Yugoslavia (1991-1995) generated approximately one million IDPs (See Weiss & Pasic 1997).

lobbied the US Department of State to recognize the GP and articulate a formal policy on displacement. These experiences lead the US to view the forced displacement of civilians within their own territory not only as a human rights and humanitarian problem but also as a political and security concern.[169]

Although the US government came short of officially endorsing the *UN Guiding Principles* when these were first introduced, a number of US officials, most notably Richard Holbrooke, recognized their importance and contributed to the creation of an international regime to protect IDPs.[170] During the early 2000s the US Department of State also began to institute official rules and procedures for IDPs and to fund international efforts to address internal displacement around the globe.[171] In 2004, USAID adopted an official *Policy Manual for the Assistance of IDPs*. This was the first of its kind for a major donor nation and was noteworthy in that it specifically referenced the *UN Guiding Principles* as "a useful framework for addressing displacement" (USAID, 2004).

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169 The US' *2002 National Security Strategy* makes specific reference to internal displacement in arguing that foreign assistance is a fundamental element of US national security: "*There is a growing concern that the failure to respond adequately to the needs of failed states and large displaced populations can become a catalyst for regional instability and, in some circumstances, can produce disaffected individuals who become vulnerable to exploitation by international extremists*." It further adds that: "*In the interests of stability, as well as for humanitarian reasons, the United States has an interest in helping IDPs and other vulnerable populations integrate into the economic and social fabric of their communities*." (USAID, 2004)

170 As US Ambassador to the UN, Holbrook played a leading role in promoting UN reforms and making UNHCR the lead agency for internal displacement. While at the time many people at State and USAID disagreed with Holbrook's ideas, he set in motion a "re-thinking" of US government policy and procedures towards displacement. Telephone interview with Jeff Drumtra ((Policy Advisor, US Department of State's Bureau of Population, Refugees, and Migration, Office of Policy and Resource Planning). March 8, 2012.

171 The US government divided the responsibility for addressing foreign IDPs crises between USAID's Office of Foreign Disaster Assistance (OFDA) and the State Department's Bureau of Population Refugees and Migration (PRM). While OFDA took the lead in coordinating the US Government's response to displacement crises around the globe PRM became the primary funder and implementer of IDP emergency programs in a number of countries.

Around this time the US also began to actively promote effective regional and international institutional arrangements to assist IDPs and became a major financial supporter of these institutions.[172] More significantly, at least in the case of Colombia, internal displacement began to figure more regularly in the State Department's yearly human rights reports. While in 1999 the US Department of State Human Rights report for Colombia mentioned the words "displaced" or "displacement" only eight times, by 2000 those words figured in 72 occasions, in 2001 they were mentioned 80 times and in 2002, 60 times. From 2005 onward, State Department Reports regularly included a subsection on "Internally Displaced Persons."[173]

International Pressure: Regional Influences

Another aspect of the internationalization of Colombia's conflict relates to the increased scrutiny that the country received from the Inter-American human rights system as the conflict intensified in the early 2000s and military aid from the US began to pour in. As Colombia's Constitutional Court began to assert itself and to challenge the Colombian state on the issue of displacement, both the Inter-American Commission for

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[172] In 2011 USAID contributed around $900,000 to IDMC, covering 25% of their budget and making it the second largest donor after the Norwegian government. Telephone interview with Anita Malley (USAID/OFDA Advisor on Internal Displacement and Protection). March 9, 2012.

[173] Number of times "displaced" or "displacement" mentioned in US Department of State Human Rights Report for Colombia: 1999, 8 times (http://www.state.gov/j/drl/rls/hrrpt/1999/380.htm); 2000, 72 times (http://www.state.gov/j/drl/rls/hrrpt/2000/wha/741.htm); 2001, 80 times (http://www.state.gov/j/drl/rls/hrrpt/2001/wha/8326.htm); 2002, 69 times (http://www.state.gov/j/drl/rls/hrrpt/2002/18325.htm); 2003, 45 times (http://www.state.gov/j/drl/rls/hrrpt/2003/27891.htm); 2004, 39 times (http://www.state.gov/j/drl/rls/hrrpt/2004/41754.htm); 2005, 40 times (http://www.state.gov/j/drl/rls/hrrpt/2005/61721.htm); 2006 50 times (http://www.state.gov/j/drl/rls/hrrpt/2006/78885.htm_); 2007 47 times (http://www.state.gov/j/drl/rls/hrrpt/2007/100633.htm);

Human Rights (IACHR) and the Inter-American Court of Human Rights became key allies of the Court.

Admittedly, Colombia's Constitutional Court has historically maintained a very close relationship with the Inter-American human rights system. According to a legal expert and former official of the Inter-American System, this dynamic reflects a sort of strategic trans-national alliance between the two bodies. At times the Inter-American system and the Colombian Court used each other's decisions to pursue their agendas. There is also some evidence of a deeper process of socialization, which produced a generation of Colombian jurists and lawyers who became agents of human rights change.[174]

Historically, Colombia has taken the Inter-American human rights system very seriously. The pronouncements of both the court and the commission have received significantly more press in Colombia than elsewhere in the region. Unlike many of its neighbors – most notably Peru under Fujimori, Venezuela under Chávez, and Ecuador under Correa – Colombia also appeared to have made a strategic decision early on to work with the system rather than to fight it.[175] In this regard, Colombia took an important step by passing Law 288 in 1996. This law, which originated with a dispute in the early 1990s between the government of Colombia and the Inter-American Court, established domestic institutional mechanisms to repair victims of human rights violations in compliance with the rulings of international bodies.[176] According to Ariel Dulizky, former Assistant Executive Secretary at the IACHR, this is the only law of its kind in

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[174] Interview with Ariel Dulitzky (former Assistant Executive Secretary at IACHR). April 27, 2013. Austin, TX.

[175] Ibid.

[176] Law 288 originated with the Inter-American Court case of *Caballero Delgado and Santana vs. Colombia* (See: http://www.corteidh.or.cr/docs/casos/articulos/seriec_22_esp.pdf)

Latin America. Instead of fighting the court's rulings or the legitimacy of the court, Colombia has spent most of its efforts working to minimize the monetary costs incurred by the Court's rulings. Consequently, Colombia's responses before the IACHR and the Inter-American Court have tended to be more sophisticated and informed than those of most other Latin American counties.

While many Latin American legal and diplomatic experts acknowledge that Colombia, on average, has taken the Inter-American human rights system more seriously than other countries they disagree on why this is. Part of it may be by design. In some ways Colombia's receptivity can be attributed the provisions in its 1991 Constitution (particularly Article 93) which gives significant weight to the pronouncements of international human rights bodies. Many also recognize that Colombia has been endowed with a relatively strong legalistic tradition. Many point to some sort of Colombian cultural exceptionalism which bestowed the country with a strong need to be accepted by the international community as a democratic and law-abiding nation.

Over the years, Colombia's attitude of engagement towards the Inter-American human rights system has resulted in the socialization of a generation of Colombian jurists who became well versed in the language of human rights. In order to better respond to these and other international human rights bodies, Colombia trained a whole generation of human rights lawyers, often with the support of the state. According to a number of international legal experts I interviewed, Colombian legal minds, on average, show a level of fluency in the area of human rights that is rare in the hemisphere. This has certainly turned the Colombian government into a formidable adversary for human rights activists who are forced to be well prepared and informed when confronting Colombia in the international arena. On the other hand, this has also been an agent of change by turning these jurists into powerful agents of human rights socialization within their own

government. Colombia's legal sophistication has also led to a more intimate relationship between Colombia's state human rights bodies and the Inter-American system. It is not uncommon, for example, for Colombian lawyers to bounce between working for the two systems.[177]

Over the years, a particularly close relationship developed between Colombia's Constitutional Court and the Inter-American human rights system, both of which worked as a sort of "tag team" to reinforce each other's decisions and build up jurisprudence to protect IDPs. When formulating an Inter-American legal framework for IDPs, for example, Robert Goldman (one of the authors of the *UN Guiding Principles* and a Commissioner at the IACHR) relied heavily on the jurisprudence set in Colombia by Law 387 and the Constitutional Courts' decisions.[178] The Constitutional Court relied on jurisprudence set by the Inter-American Court when it tackled the issue of displacement and, according to one of T-025 principal authors, owed much of its success to the support it received from the Inter-American system.[179] When arguing the binding nature of the Guiding Principles, Colombia's Constitutional Court took note that the IACHR had officially endorsed them (T-025, paragraph 5.1.). After 2004, the Inter-American Court made repeated reference to T-025 on a number of decisions – sometimes with regards to

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177 Interview with Ariel Dulitzky (former Assistant Executive Secretary at IACHR). April 27, 2013. Austin, TX. A few examples include: Marcela Briceño-Donn (formerly at the IACHR and then in Colombia's Ministry of Foreign Relations); Maria Claudia Pulido (formerly at for the Colombian' Attorney General's Office now works at the IACHR; Alvaro Tirado Mejia (former Presidential Council for Human Rights and was a member of the Commission); Catalina Botero Marino (former attorney with the Colombian Constitutional Court and Ombudsman is currently the Commission's Special Rapporteur for Freedom of Expression). Federico Guzmán Duque (formerly with the Constitutional Court the moved to the IACHR).

178 Telephone interview with Professor Robert Goldman (former Chairman of the IACHR). April 18, 2012.

179 Interview with Clara Elena Reales (former attorney in Colombia's Constitutional Court). July 10, 2013. Bogotá.

displacement crises in other countries.[180] According to Rincón (2009), the Inter-American Court established a more forceful normative framework and legitimized the intervention of the Colombian court by recognizing the standards it established as true international standards.

As illustrated above, T-025 was in many ways a product of the internationalization of Colombia's conflict. It is difficult to imagine that the Court would have acted as boldly as it did, or that its decisions would have carried much weight if the Court had not benefitted from the support of the international community. After 2004, T-025 turned into a rallying point for domestic and international efforts to address the problem of displacement in Colombia. The Court and its Follow-up Commission, in turn, also became a sort of "national panopticon" on the issue of displacement.[181]

While the Court centralized and publicized the observations and reports from the various governmental monitoring bodies, NGOs, and international agencies in Colombia, activists coordinated their efforts to support the Court's decisions. UNHCR, for example, served as "amicus curiae" to the court and supported the various state entities (i.e. *Acción Social, Controlloría, Procuraduría*, and municipal authorities) that the court had charged with instituting and monitoring the state's response. UNHCR played a particularly crucial role in providing technical assistance to a team of Community Defenders ("*Defensores Communitarios*") who were charged with accompanying IDPs and communities in risk of displacement.[182]

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180 Some examples include *Mapiripán Massacre v. Colombia* (2005); *Moiwana Village v. Suriname* (2005); *Pueblo Bello Massacre v. Colombia* (2006); and *Ituango Massacres v. Colombia* (2006). See Rincon (2009).

181 Interview with Federico Guzmán Duque (Human Rights Specialist at the IACHR and former attorney with Colombia's Constitutional Court). May 14, 2010. Washington, DC.

182 Interview with Andrés Celis (Protection Unit Coordinator, UNHCR - Colombia). July 19, 2013. Bogotá.

STATE RESISTANCE AND PROBLEMATIC IMPLEMENTATION

Although the momentum initiated by T-025 and the Court's jurisdiction over Colombia's displacement policy certainly put significant pressure on the state, this pressure did not always translate into concrete action. Many observers and legal experts remain divided on whether it ultimately made a real difference in the lives of most IDPs. Some describe the government's response to displacement as a soufflé: "hard on the outside and hollow in the middle."[183] According to a former attorney in the Constitutional Court, the Colombian government over the years perfected the art of appearing to comply with the Courts' orders while doing very little. Ultimately, the situation of most IDPs remained critical despite the fact that, at least on paper, Colombia had one of the most developed responses to internal displacement in the world.

There are a number of reasons why implementation of this advanced legal framework continued to be so problematic. Much of this problem could be traced to the fact that, despite significant internationally funded efforts, the government institutions charged with implementing government's policy remained plagued by incompetence and lack of capacity. It is important to remember that Colombia also continued to be at war. In fact, Colombia's internal conflict intensified significantly during the eight years of Uribe's tenure (2002-2010) and, in many ways, Colombia continued to operate as a fractured and decentralized state. For this reason, changes in policy and attitude in Bogotá did not always translate into changes at the regional level where most of the displacement was happening. Human rights activists maintain that many zones of expulsion were captured by the interests of local socio-economic elites who, for the most

[183] Interview with Federico Guzmán Duque (Human Rights Specialist at the IACHR and former attorney with Colombia's Constitutional Court). May 14, 2010. Washington, DC.

part, were not interested in protecting IDPs and were sympathetic to the paramilitaries. These elites, in turn, constituted a significant part of President Uribe's political base.[184]

Uribe himself showed much disdain for the victims of the conflict. During most of his administration Uribe's government was marred by allegations that at best he was sympathetic to the paramilitaries, and at worst actively supported them. The President was suspected of holding a deep-seeded personal hatred of the guerillas as a result of his father's murder by the FARC in 1983 during a failed kidnapping attempt. As governor of Antioquia during the 1990s Uribe also was one of the first proponents and promoters of peasant self-defense groups organized under CONVIVIR. These self-defense groups later morphed into formidable paramilitary armies and were responsible for causing much of the displacement (IACHR, 1999). Although between 2003 and 2006 Uribe formally negotiated the demobilization of the AUC – Colombia's largest and most notorious paramilitary organization – this process was heavily criticized by national and international human rights organizations (including OHCHR and IACHR) because it granted significant impunity to human rights violators and ignored the rights of victims to seek justice and reparation.[185] An investigation initiated by the Colombian Supreme Court, which became know as the "*parapolitics*" scandal, revealed that many of Uribe's closest allies had links with AUC paramilitaries.[186] Although Uribe himself was never investigated, his administration was accused of repeatedly seeking to undermine the legitimacy of the Supreme Court in order to assure impunity. Several magistrates

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184 Ibid. & Interview with Gimena Sánchez-Garzoli (WOLA; formerly at Brookings' IDP Project). March 28, 2013. Washington, DC.

185 See: http://www.amnestyusa.org/our-work/countries/americas/colombia/impunity

186 By 2010 the Supreme Court had charged 93 Colombian congressmen with having illicit ties to paramilitary organizations, and sentenced 22 of them. The Court also launched investigations into twelve governors, 166 mayors, 58 city councilmen, as well as thirteen other government officials. (See: http://colombiareports.co/un-reports-on-colombian-parapolitics/).

investigating the case, in fact, were threatened, placed under surveillance and had their communications intercepted by state institutions.[187]

Uribe's antagonism towards human rights efforts in Colombia explains in part why Colombia's Constitutional Court decided to intervene so forcefully but also why implementation of the courts' orders was so problematic. In many ways, Uribe's arrival in power represented a "complete game changer" for the human rights community.[188] Unlike his predecessors, Uribe acted like a real hard-liner from the start. He showed disdain for the international humanitarian organizations and human rights activists whom he saw as an obstacle to his military campaign to defeat the insurgency once and for all. A pointed critic of Pastrana's failed peace plan, Uribe promised during his campaign to double the size of Colombia's military and enlist a million civilians in an effort to block the advance of the FARC. Although his "Democratic Security Policy" claimed to protect the civilian population and respect the rule of law, his policy reverted to many of the practices employed by previous national security schemes that had led to human rights abuses in the past (Mason, 2003). For example, Uribe reintroduced the controversial "state of siege" legislation that was first invoked in 1965 to repress dissent. He also ordered his generals to recruit civilians to spy on suspected guerillas and help the army to catch and kill them (Kirk, 2004).

As Uribe's "get tough" attitude became a target of attacks by human rights campaigners the President took a number of measures to intimidate and marginalize the human rights community. Following a series of military successes against the guerillas, Uribe declared prematurely that the internal war had ended in Colombia. He claimed that

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187 See: Amnesty International. *Colombia: Impunity*. (http://www.amnestyusa.org/our-work/countries/americas/colombia/impunity).

188 Interview with Gimena Sánchez-Garzoli (WOLA; formerly at Brookings' IDP Project). March 28, 2013. Washington, DC.

the violence that remained constituted only sporadic acts of terrorism. He also repeatedly denied there was any sort of humanitarian crisis in the country.[189] This strategy was certainly aimed at freeing Colombia from intense international scrutiny. It may have also been an effort to send a signal to the international community that Colombia had in fact turned a page on its violent history with the aim of attracting international investment back to the country.

Uribe, however, faced the problem that he could not claim to have won Colombia's internal war as long as there was a humanitarian crisis in the country that was being documented by international actors. According to Gimena Sánchez-Grazoli of the Washington Office on Latin America (WOLA), Uribe went to great lengths to sabotage the efforts of the international organizations and INGOs working with IDPs."[190] The government's consultations with IDP groups became a charade, or as another international human rights advocate described: "an over-bureaucratized academic exercise."[191] In an effort to diminish the autonomy of INGOs in Colombia, Uribe also forced all international assistance to be channeled through Colombian government entities. Sánchez-Garzoli claimed that by 2005, Uribe had succeeded in significantly reducing the presence of the international community in Colombia by making the conflict more invisible. A number of Colombian activists also felt that UN humanitarian agencies in Colombia became significantly less outspoken during the Uribe years perhaps because they were afraid of losing access to communities in need. Some organizations such

[189] Ibid.
[190] Ibid.
[191] Interview with Catherine Bouley (Christian Aid Colombia). April 9, 2013. Bogotá.

UNHCR, however, continued to publicly contest Uribe's claims that the conflict had ended.[192]

Arguably, the Constitutional Court's appropriation of IDP policy after 2004 made it increasingly difficult for the Uribe administration to ignore Colombia's humanitarian crisis and claim that the conflict had ended. As I have argued above, the court succeeded in mobilizing international and domestic human rights advocates, international donors, academics and conscientious government functionaries to elevate and maintain the issue of displacement at the forefront of the policy agenda and through innovative procedures such as the creation of the *Follow-up Commission* creating a robust monitoring and accountability apparatus.

In the face of an authoritarian administration T-025 and the court's subsequent intervention on the issue of internal displacement was a significant accomplishment. By several accounts T-025 represented a real watershed moment, not only for Colombia's IDP normative framework but also for the international IDP regime as a whole. By making the *UN Guiding Principles* legally binding under domestic law, the court's decision enabled the Principles to harden into customary international law. The level of pressure and oversight exercised by the Court and its allies led to the development, during the next administration, of an even more comprehensive law for the reparation and land restitution of victims of the conflict (Law 1448 of 2011), which is explained in more detail in the following chapter.

[192] Interview with Andrés Celis (Protection Unit Coordinator, UNCHCR - Colombia). July 19, 2013. Bogotá.

CONCLUSION

The story of T-025 and the development of subsequent efforts to implement Colombia's commitment to IDPs show that international factors mattered greatly. At first glance, the story of this important judicial intervention may suggest a purely domestic phenomenon that resulted from Colombia's legal and institutional particularities. Yet, as this chapter demonstrates, the court's unprecedented audacity, the resonance of its rulings, and the executive's responsiveness to these can only be fully understood by taking into account the increasing internationalization of Colombia's conflict during the 2000s.

The drive to T-025 and its aftermath also reveal evidence of a classic boomerang strategy at work (Keck & Sikkink, 1998). Activists frustrated with the state's failure to follow up with its commitments and properly implement law 387 took advantage of the links to transnational human rights networks they had developed during the past decade. Colombian activists benefited from the assistance of the Inter-American Human Rights Court and Commission to assist in monitoring the implementation of the law. They worked closely with UN bodies based in Colombia. They successfully lobbied in the United States Congress and State Department to link issues of great strategic importance to Colombia, namely military assistance and trade negotiations, to Colombia's human rights record. They ensured that foreign aid was diverted to fortify Colombia's human rights institutions. They also deepened strategic alliances with trans-national sympathizers to gain funding, visibility and obtain greater legitimacy at home – this last one being key to ensuring the physical security of IDP leaders and human rights activists.

Another dynamic that also explains the story of T-025 but which was independent from the "boomerang strategy" was the gradual socialization of Colombian governing elites within regional and international human rights institutions. It is evident that

through long-term and repeated interaction with regional institutions, such as the Inter-American Human Rights Court and Commission during the 1980s and 1990s, a new generation of Colombian jurists and policymakers came to internalize a new set of roles and interests. While it is difficult to determine exactly how influential this process may have been in the case of Colombia's policy towards IDPs, it has undeniably played a role in supplying Colombian lawyers and policymakers with the motivation and expertize necessary to gradually institute and implement regional human rights standards in Colombia.[193]

[193] Borrowing from the discipline of sociology, international relations and international law literature has increasingly come to recognize the power of socialization within international organizations. See, for example Goodman & Jinks (2004), Johnston (2008), and *International Organization* special edition (October 2005) (Vol 59, Issue 4).

Chapter 5: Victims and Land Restitution Law of 2011 (Law 1448)

By the time President Uribe left office, Colombia had in place one of the most advanced and sophisticated legal and institutional frameworks in the world to protect IDPs. After all, Colombia had been one of the first countries in the world to acknowledge the phenomenon of internal displacement and to recognize the states' responsibility to address the crisis. In 1997 Colombia instituted one of the first and most comprehensive laws on displacement and in 2004 officially recognized the *UN Guiding Principles* as binding international law.

Despite initial failures to implement the law and concerted efforts by a hard-liner administration to disaffirm many of Colombia's human rights commitments, coordinated international and domestic efforts kept the state accountable. Colombia grudgingly moved towards implementation of its laws and greater compliance with the international regime. During the succeeding administration, Colombia took a momentous step to address the crux of the displacement crisis and effectively moved into a much deeper phase of compliance with the IDP regime.

On June 10th, 2011, less than a year after taking office, President Juan Manuel Santos signed Colombia's *Victims' and Land Restitution Law* (also known as Law 1448 of 2011). This law was unveiled in a very public ceremony held in the courtyard of the presidential palace in the presence of UN Secretary General Ban-Ki Moon, the diplomatic core, representatives of Colombian and international human rights organizations, and hundreds of victims from different ethnicities and all walks of life. Santos had arranged for the law's signing to coincide with a visit by Ban-Ki Moon in order to send an unequivocal message to the international community that Colombia was

coming to terms with half a century of internal conflict and would respect international norms as they related to the rights of victims.

In an emotional speech Santos recognized the historic nature of this law, which was arguably "the most ambitious project the country had embarked on in the last decades" (Cristo, 2012):

> *"Today, as we all know, is a historical day. Today is a day of national hope in which, not only us Colombians but the entire world is a witness of the state and society's intention to pay a long overdue moral debt to the victims of a violence that must end… which we must end! Victims do not have political color and this law has become, as it should be, the purpose of Colombian society as a whole."*[194]

This ambitious and complex piece of legislation, which became the centerpiece of Santos' first administration, symbolized the crystallization of Colombia's commitment to comply with international norms to protect IDPs and other victims of the conflict. The law explicitly recognized, for the first time, the existence of an internal armed conflict in Colombia and the state's responsibility to protect and compensate its millions of victims – most of whom had been forcefully displaced.

The law demonstrated that, as a result of more than two decades of coordinated international and domestic efforts, Colombia had reached a tipping point in terms of compliance with international human rights and humanitarian norms. The proverbial genie was "out of the bottle." Despite significant efforts by Uribe and his allies to turn back the clock, by 2011 Colombia was showing signs of robust compliance with the IDP regime.

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194 Quoted in Cristo (2012). My translation.

Table 11: Phase III: Timeline of Events

Year	Event
2005	Portions of Plan Colombia aid begin to be allocated to finance human rights protection measures and judicial reforms. From 2005 to 2008 Colombia's Attorney General's Office receives $150 million and technical support and assistance
	Justice and Peace Law signed by Uribe to facilitate the demobilization of paramilitaries. Law comes under heavy domestic and international criticism
2006	ICTJ (International Center for Transitional Justice) opens an office in Bogota with the mission of strengthening national mechanisms of protection of victims' rights to truth and reparation
2007	Victims' Law bill first introduced in the Colombian Congress by the Liberal Party. Congress commemorates first *Day of Solidarity with the Victims*
	UNDP organizes and finances public hearings around the country promoting the Victims' Law project
2008	The UN High Commissioner for HR, Navi Pillay, visits Colombia and expresses support for the Victim's Law project
2009	FARC forces are estimated to have shrunk to 9,000 from their peak of 17,000 during the 1990s. (2005-2009) FARC is severely debilitated having lost much of its leadership and popular support.
2010	Uribe is barred from running for a 3rd time in office. Juan Manuel Santos, his Secretary of Defense and hand-picked successor is elected President
	First round of "High-Level Partnership Dialogues" held between Colombia and the US is held in Bogota. Human rights figure prominently in the discussions
2011	**Victims' and Land Restitution Law signed by Santos**
	(October) After more than six years of debate US Congress finally approves the FTA with Colombia. The treaty goes into effect on May 15, 2012
2012	Government Peace talks with the FARC are launched in Oslo and move to Havana in November 2012

LAW 1448

Law 1448 "which dictates measures of attention, assistance and integral reparation to victims of the internal armed conflict and other procedures," better known as the *Victims' and Land Restitution Law*, had been debated in the Colombian Congress since 2007. The law allows for damages to be paid to over four million victims of Colombia's armed conflict and seeks to restore millions of hectares of stolen land to its rightful owners. At that time, the compensation component of the law alone was projected to cost the state approximately $20 billion and the land restitution process was estimated to take over a decade to complete.[195]

The law sets forth a series of specific measures to repair the damage done to victims of Colombia's internal conflict. It officially recognizes that there is a universe of victims who have suffered individually and/or collectively from human rights violations and violations of international humanitarian law as a direct result of a conflict that has affected the country since at least 1985.[196]

The law contains a number of reparation measures that includes the restitution of lost or stolen lands, and when this is not possible, monetary indemnification given on condition that the victims not sue the state. The law also seeks to address victims' rights to "truth," by ordering the implementation of a number of extrajudicial measures to shed light on the events that victimized Colombians. This includes the creation of a National Center for Historical Memory to act as a combination of historical repository and think-tank to collect and diffuse information on Colombia's conflict and history of human

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[195] See: BBC News. *"Historic" Colombian victims' compensation law signed*. June 10, 2011. (http://www.bbc.com/news/world-latin-america-13736523)

[196] The law explicitly excluded the thousands of victims of violence that had been the result of common crime or the drug war in general.

rights violations. The law also orders the state to provide all necessary protective measures for victims, witnesses and public functionaries who intervene in the administrative and judicial procedures of reparation and, in particular, land restitution.

In order to administer its reparation provisions the law created a new government bureaucracy that includes *The Administrative Victims Unit* ("Unidad Administrative de Atención y Reparación"), headed by Paola Gaviria Betencur (an outspoken victims' rights advocate and the granddaughter of a former president Belisario Betancur) and a separate administrative unit to deal with land restitution. In practical terms, the law transferred responsibility for the protection of IDPs from Acción Social (where it resided during the Pastrana and Uribe administrations) to the Victims Unit.

Although the law significantly reshuffled the government agencies that addressed displacement and created a plethora of new ones, prior government's commitments towards IDPs were not really affected. Rather, according to the IDP point person in the Department of the Interior, the law merely broadened the definition of the population of concern while continuing to recognize the Colombian government's responsibilities for preventing displacement, facilitating humanitarian attention and stabilizing the socio-economic situation of IDPs.[197] Because 90% of Colombians recognized by the law as victims and identified as such in the government's own database (the RUPD system) were in fact IDPs, the population of concern remained practically the same. The principal change was that the law also included IDPs' right to land restitution, which the previous Law 387 had not, and took into account many of the lessons learned from the

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197 Law 1448 in fact gave the President the authority to reform the government institutions by decree. The responsibilities formerly held by Accion Social is now divided into: (1) The Department for National Prosperity (Departamento para La Prosperidad Social or DPS); (2) The Administrative Unit for Territorial Consolidation (Unidad Administrativa para la Consolidación Territorial); and (3) the Victims Unit. It also created a new sector "For National Inclusion (Sector Para la Inclusión Social) whose function is a bit unclear and a National Center for Historical Memory to be administered by DPS.

government's prior failures in tackling displacement (i.e. the time of RSS, etc.).[198] Another major difference was that Law 1448 addressed displacement within the context of transitional justice.

This law is significant in several respects. Given the complexities involved in restituting nearly seven million hectares (17 million acres) [199] to its rightful owners and the large number of victims, Law 1448 is without a doubt one of the most ambitious laws of its type in the world. The law is also much more comprehensive than comparable laws in that it adopts an integral approach to the reparation of victims. It provides them with indemnification, satisfaction, rehabilitation, restitution, and guarantees of non-repetition, which makes the law compliant with all major international transitional justice norms (Cristo, 2012). Most importantly, the law is also unique in that, unlike most transitional justice measures of its type, 1448 was to be implemented at a time when the country was still very much in the midst of an internal armed conflict.

The new law was also tremendously significant because its text contained the first official recognition by the state that there was, in fact, an internal armed conflict in Colombia. Previous administrations, particularly Uribe's, had refused to acknowledge this obvious fact for fear that recognizing an internal state of war would provide the illegal armed groups with some sort of political legitimacy internationally and would demoralize the armed forces by subjecting them to the unnecessary scrutiny and limitations inherent in international humanitarian law.

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198 Interview with Viviana Ferro Buítrago (Colombian Interior Ministry). April 18, 2013. Bogotá.

199 According to the Colombian publication *Semana* by 2011, approximately 2 million hectares had been stolen through violent means and an additional 4 million hectares were abandoned by families fleeing conflict. See: Semana. *Ley de Víctimas: un paso histórico*. May 28, 2011. (http://www.semana.com/nacion/articulo/ley-victimas-paso-historico/240497-3)

Finally, the law was truly historical in that, by making land restitution the center of its reparation policy, the state recognized what academics and left wing activists had argued for a long time – namely that land ownership was "the center of gravity" of Colombia's five-decades-long armed conflict.[200] Law 1448 for the first time committed Colombia to return all stolen and abandoned lands to their legitimate owners and to indemnify them in cases where restitution was not possible (Cristo, 2012).

The international community received Colombia's new law with cautious optimism. The implementation of many of 1448's provisions would present difficult and complex challenges. Colombia, admittedly, had a record of drafting laws that looked great on paper but which it later failed to implement properly. As Ban-Ki Moon cautioned during the signing ceremony: "the proper and timely implementation of this law [would] determine whether expectations [were] met."[201] However, the fact that Santos seemed ready to make a "historic gamble" by making the Victims' Law the centerpiece of his administration suggested that there was something very different about 1448. It somehow signaled that Colombia had taken a significant leap in terms of compliance with international IDP norms and was finally willing to bear the costs of protecting the rights of over four million IDPs.

1448 MARKS A SHIFT IN FRAME

The advent of Law 1448 marked an important shift in the way that Colombia's humanitarian crisis was framed. Rather than addressing specifically the problem of

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[200] See: Semana. *Ley de Víctimas: un paso histórico*. May 28, 2011. (http://www.semana.com/nacion/articulo/ley-victimas-paso-historico/240497-3)
[201] See: Colombia Reports. *UN's Ban Ki-moon commends Victims' Law*. June 13, 2011. (http://colombiareports.co/uns-ban-ki-moon-commends-victims-law/)

displacement, the Colombian government purported to deal more broadly with the concept of "victimhood."

As argued above, the population targeted by these policies was essentially the same. IDPs, after all, constituted the vast majority of the victimized population in Colombia, which at the time was estimated to surpass four million. Moreover, by tackling the issue of land ownership the government was finally addressing the crux of the displacement crisis. The law's reparation provisions would also affect IDPs, most of whom, individually or collectively, have been the victims of multiple human rights violations (including: threats, sexual violence, mutilation, enslavement, the murder and forced recruitment of loved ones, the destruction of their homes, communities and livelihoods). This law is undoubtedly about them.

The conceptual shift form "IDP" to "victim" broadened the government's focus beyond the practical challenges of forced migration to include the root causes and consequences of displacement. In a way, it forced the government to look at IDPs in a more holistic manner, as human beings who had been wronged and deserved protection and reparation, and not only as migrants who in a manner of speaking: "were geographically in the wrong place."

This shift in frame was only made possible by the increased recognition of the existence of an internal armed conflict in Colombia. The law was precipitated by an ensuing national debate what transitional justice should look like in Colombia. Moreover, 1448 was in many ways the result of a conscious decision by Colombian human rights activists to reframe their discourse away from forced migration to include the wider issue of victims' rights. What explains this change in frame?

Arguably during the 21st Century it became easier for Colombians to identify with IDPs as fellow victims rather than as forced migrants. Prior to the 1980s the concept of

"victimhood" had been highly politicized and treated with suspicion by the majority of Colombians. Those claiming to be victims were often seen as peasant agitators – and possibly guerrilla sympathizers – who had somehow brought their fate upon themselves. As the spread of violence began increasingly to affect urban middle and upper class Colombians, during the 1980s and 1990s, the concept of "victimhood" became more inclusive and less political. Members of Colombia's political and economic elites were increasingly the victims of kidnapping, murder, and terrorist attacks – including the infamous car bomb attack in 2003 of Bogotá's exclusive country club El Nogál.[202] Colombian politicians across the political spectrum were victims of violence. To list just a few examples, President Samper was seriously injured during the assassination of the Union Patriotica Party secretary, José Amquera in 1989. The fathers of President Uribe, Senator Cristo and Representative Cepeda (a leader of the left wing opposition party Polo Democratico Alternativo) were murdered.

As one IDP activist explained to me, this shift could also be partly explained by the fact that, simultaneously, the concept of internal displacement might have suffered some "natural wear" (or "*desgate"* in Spanish) as a result of decades of campaigning.[203] As the Colombian campaign for the rights of IDPs succeeded in securing political victories and obtained important government concessions, the Colombian population ironically may have become gradually desensitized to the concept of forced displacement.

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[202] On February 7, 2003, a car containing 200 kg of explosives that was parked in a garage on the third floor of *El Nogal* club, exploded, killing 36 people and wounding more than 200. There were approximately 600 people in the building at the time of the explosion. The attack by the FARC was the worst in Colombia for more than a decade prompting the UN Security Council to issue a resolution (1465) condemning the attack. See: *CNN*. "At least 23 killed in Colombia club blast." February 8, 2003. (http://www.cnn.com/2003/WORLD/americas/02/08/colombia.explosion/index.html)

[203] Interview with Flor Edilma Osorio Pérez. July 16, 2013. Bogotá.

Part of the reason may be that, over time, the concept has lost the power inherent in its novelty. The concept of displacement had been over-used and sometimes abused.

Many Colombians, for example, became suspicious of people claiming to be internally displaced because of well-publicized instances of "cheating." It was not uncommon to encounter panhandlers at stoplights in Bogotá flashing what appeared to be IDP registration cards but which in many cases were forgeries. Some mid-level government functionaries, including public defenders (*"personeros municipales"*) charged with protecting IDPs even became convinced that the greatest challenge facing Colombia's displacement crisis were "false IDPs" who took advantage of the relief and compensation system.[204]

This did not imply that Colombia's evolution with regards to the recognition of IDP rights had suffered any sort of significant setback. It only signified that the IDP campaign was increasingly affected by a common form of compassion fatigue or apathy, which tends to affect audiences saturated with images of misery and bad news and affect the latter stages of activist campaigns (S. Cohen, 2013; Moeller, 1999).

As the national discourse shifted to issues of transitional justice during the 2000s it also became trendier to talk about victims. Undoubtedly, this allowed the IDP movement to broaden its coalition. A major IDP advocacy organization in Colombia even debated changing its name to replace the word "displacement."[205] Some activists expressed some discomfort with the shift in discourse/conceptualization claiming that "it is dangerous and perverse to play around with categories" while others recognized that

[204] Ibid.
[205] Interview with Flor Edilma Osorio Pérez. July 16, 2013. Bogotá.

the shift may have its advantages.[206] Ultimately Colombian IDPs understood that the law that culminated from the campaign on behalf of victims' rights was about the displaced. How then did this law come about?

GENESIS OF THE LAW

The idea of a comprehensive victims' law came out of Uribe's botched efforts to demobilize Colombia's paramilitary forces. Although president Uribe had allegedly been an early champion of peasant self-defense forces, by the early 2000s he decided to purge Colombia of all irregular armed groups. Undoubtedly he was under heavy international and domestic pressure to dismantle Colombia's paramilitary groups. In 2001 the US State Department added the *United Self-Defense Groups of Colombia* (AUC) to its list of Foreign Terrorist Organizations, and the European Union and Canada soon followed suit.[207] Over the years, paramilitary organizations like the AUC had come to control a large portion of Colombia's drug trade in search of financing and the US was calling for the extradition of many of its leaders. Colombia's paramilitaries were responsible for the majority of the displacements and reported human rights violations and had been the authors of a series of massacres that captured the popular imagination for their gruesomeness and cruelty.[208]

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[206] In Colombia it is legally easier to organize victims groups than it is to organize IDP groups. According to one of CODHES founders, victims groups are not required to register as legal entities (obtain "personeria juridica") but IDP organizations are. (Interview with FEO)

[207] See: http://www.state.gov/j/ct/rls/other/des/123085.htm

[208] This included the Mapirapán massacre in the department of Meta where an estimated 30 people were tortured and killed – decapitated with chainsaws, hung from meat hooks, hacked with machetes and their corpses thrown into the Guaviare River -- between July 14 and 20, 1997; The Alto Naya massacre in Cauca in which approximately 40 to 130 civilians were killed and thousands displaced in April 2, 2001 by approximately 100 paramilitaries; and the Betoyes massacres of the indigenous Guahibo community in Arauca in early 2003 where, aside from murdering a number of people, paramilitary forces systematically raped a number of teenage girls and gruesomely mutilated their bodies before disposing of them into a

In 2003 the Uribe administration signed a peace agreement with the AUC and initiated the demobilization of approximately thirty-one thousand paramilitary troops. The legal framework under which the demobilization took place soon came under strong criticism from IDP and human rights groups. The AUC agreed to lay down its arms in exchange for a government promise to restrict legal actions that could be taken against its members. The original law submitted by Uribe to the Colombian Congress did not come close to meeting international humanitarian standards. Yet after a lengthy congressional debate, the *Justice and Peace Law* (also known as Law 975) was passed in 2005. Among other things, the law blocked extraditions of demobilized paramilitaries to the US and set limits on sentences. The law also created a system to repair victims by making the paramilitaries responsible for compensating their victims in exchange for reduced sentences.

This law soon came under heavy criticism from abroad. Although the US Ambassador to Colombia, William Wood, enthusiastically backed the new law, Amnesty International suggested that the law amounted to little more than de facto amnesties for human rights abusers.[209] A New York Times editorial suggested that the law be called the "Impunity for Mass Murderers, Terrorists and Major Cocaine Traffickers Law."[210] The law was also controversial in Colombia where, according to a survey conducted by the International Center on Transitional Justice, 75% of Colombians believed that the government should prosecute members of the paramilitaries (ICTJ, 2006).

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river. (See: Hiristov, Jasimin 2009, The *Paramilitarization of Colombia*; http://colombiajournal.org/colombia64.htm; ¡YA BASTA!; Wikipedia, "Paramilitarism in Colombia")

[209] See: *Amnesty International World Report 2009: Colombia*. (http://report2009.amnesty.org/en/regions/americas/colombia)

[210] See: *New York Times Editorial*, "Colombia's Capitulation." July 4, 2005. (http://www.nytimes.com/2005/07/04/opinion/04mon3.html?_r=0)

In May 2006, Colombia's Constitutional Court struck down many of the law's controversial provisions and amended the law to allow victims to participate in all stages of legal proceedings and to require demobilized paramilitaries to offer full confessions. According to José Miguel Vivanco, Americas' Director at Human Rights Watch, these provisions finally gave the law "some teeth" and alleviated many of the concerns of the international human rights community.[211] Paradoxically, the law's passage also provoked in Colombia a very public debate about the nature of transitional justice victims' rights.[212]

While a negotiated solution to Colombia's conflict seemed remote under Uribe, significant military advances and improvements in the country's security situation suggested that an end to the conflict was on the horizon. Colombia's paramilitaries were laying down their arms and the FARC had been greatly debilitated after suffering a number of critical blows. Within this context, many Colombians began expressing a fear that the conflict's countless victims were being forgotten while the victimizers were receiving all of the benefits of the demobilization process (Sánchez, 2009). This sentiment was amplified by the fact that the Justice and Peace Law was being poorly implemented and victims were finding it extremely difficult to find redress.

Among other things, the law's established means of reparation involved lengthy and onerous civil judicial processes that required the establishment of culpability. By the end of 2008 only 130,000 of the millions of victims eligible had applied to have their cases considered by the new mechanisms of reparation. The special tribunals created to judge these cases had only issued a single sentence, which was being appealed before the Supreme Court. Furthermore, the law was seriously flawed in that it did not really

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[211] See: Human Rights Watch. *Court Fixes Flaws in Demobilization Law: Constitutional Court Rulling Orders Paramilitaries to Confess*. May 19, 2006. (http://www.hrw.org/news/2006/05/18/court-fixes-flaws-demobilization-law)

[212] See in particular: Díaz Gómez, Sánchez & Uprimny (2009)

recognize the existence of an internal armed conflict and consequently did not acknowledge human rights violations perpetrated by state agents (Sánchez, 2009).

Outrage over Colombia's Peace and Justice law led to the mobilization of victims' groups, comprised mainly of IDPs, many of whom challenged the government's reparation mechanisms though the courts, ultimately resulting in various Constitutional Court pronouncements to reform the law.[213] A number of Colombian human rights organizations and legal thinktanks such as DeJusticia and Indepaz campaigned to bring Colombia's Peace and Justice process closer in line with international standards of transitional justice and to make Colombia's victims of conflict a lot more visible.

One campaign that gained significant prominence was spearheaded by an organization called "Víctimas Visibles" (Visible Victims), which was founded in 2001 by Diana Sofia Giraldo de Melo, a popular Colombian TV journalist and university professor of communications. Víctimas Visibles was inspired by a similar movement that had taken hold in Spain. The Spanish movement had successfully campaigned for the rights of victims of terrorism (from Basque separatists and later Al Quaeda) and had led to the institution of a victims' reparations law in Spain (Law 32 of 1999). Víctimas Visibles began its campaign by compiling and diffusing, through popular media, the testimonies of many of Colombia's victims of violence. They also liaised with a Catholic university in Spain and organized a series of international conferences on victims of terrorism. In Colombia they approached the leaders of the major political parties in an effort to promote a national "Day of Solidarity with the Victims" and suggest a victims reparation law project similar to the one passed in Spain.

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[213] See for example: C-1199 of 2008; Auto 08 of 2009; T-1001, and T-444 of 2009 (Sánchez, 2009).

Although Víctimas Visibles approached policy makers from across political lines with the idea of a victims' law they caught the attention of Juan Fernando Cristo, a Liberal senator from the city of Cúcuta whose father (also a senator) had been assassinated by ELN guerillas in 1997. The law project got a significant boost when the opposition Liberal party headed by former Colombian president Cesar Gaviria, whose sister had been gunned down the previous year, decided to add the issue of victims' rights to its political platform. On July 24, 2007 the Colombian Congress commemorated the first Day of Solidarity in which over 40 victims presented their testimony before congress during a session that lasted over eight hours. The poorly attended event soon became a symbol of the plight of Colombia's victims because it clearly showed that legislators were a lot more interested in testimonies of demobilized paramilitary leaders, who had come before the Congress only a few years before, than those of victims.[214] The virtually empty chamber that greeted the victims who came to give their testimony at the capitol in Bogotá became a very visible reminder that the Colombian government cared more about the perpetrators of the conflict than its victims. Senator Cristo and his colleagues in the Liberal party used this embarrassing episode to great effect to launch a victims' law project in the Colombian legislature.

It is likely that the Liberal Party, as suggested by Sánchez (2009), may have initially acted out of political opportunism when they agreed to take on the issue of "victims rights." This issue provided the opposition with an opportunity to confront an enormously popular president with an issue that resonated with a majority of Colombians. In 2007, Uribe was serving a second term in office thanks to a

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[214] See: *New York Times*. "At Colombia's Congress, Paramilitary Chiefs Talk Peace. July 29, 2004. (http://www.nytimes.com/2004/07/29/world/at-colombia-s-congress-paramilitary-chiefs-talk-peace.html?pagewanted=print)

constitutional amendment. At the time he was widely credited with bringing about an unprecedented era of peace and prosperity to Colombia. His human rights record and denial of the continuing violence, however, had made him increasingly the target of criticism in Colombia and abroad. The prospect of a victims' law also generated significant enthusiasm within domestic and international human rights circles (Uprimny Yepes & Saffon, 2008).

INTERNATIONAL PRESSURE

UN Agencies based in Colombia soon rallied around the law project. The Resident Coordinator of the UN and Representative of UNDP in Colombia, Bruno Moro, became one of the most outspoken early champions of the victims' law. After a first draft of the bill was approved in the Colombian Senate and moved to the House of Representatives, UNDP financed and helped organize a series of public hearings around the country to promote the law and elicit feedback from more than 5,000 victims.[215] According to Senator Cristo (2012), this may have represented the most ambitious exercise of citizen participation in Colombia since the constitutional reforms of 1991.

On at least one occasion, representatives from the OHCHR's mission in Bogotá also acted as facilitators in closed doors discussions between legislators and provided ongoing technical support to the drafters of the bill. During her first visit to Colombia in October 2008 the UN High Commissioner for Human Rights, Navi Pillay, allegedly also expressed to President Uribe her support for a victims' law (Cristo, 2012). She followed her visit with a public letter to the president of the Colombian Senate urging for the

[215] A total of nine hearings were held in the cities of: Medellín, Vilavicencio, Pitalito, Sincelejo, Valledupar, Pasto, Quibdó, Barrancabermeja and Cúcuta (Cristo 2012).

approval of a law that would not discriminate against victims of the state. Aside from the UN, the IACHR, and a number of human rights INGOs, most notably the New York-based International Center for Transitional Justice (ICTJ) provided technical assistance and support to the law's proponents. ICTJ, perhaps the leading international NGO on issues of transitional justice, had established an office in Bogotá in 2006 with the mission of strengthening national mechanisms for the protection of victims' rights to truth, justice, and reparation. When the law was being debated in Congress they approached Colombian legislators and educated them on a number of international principles and past experiences of transitional justice around the hemisphere and in countries such as Iraq and South Africa. Their office in Bogotá, in fact, became its largest after their headquarters in New York.[216] Senator Cristo also received the support of Washington-based WOLA and CEJIL (Center for International Justice and Law) who invited him to speak in the US.

The momentum generated by the law project illustrated how the collaboration between international and domestic advocacy groups remained a critical mechanism in deepening Colombia's level of compliance with international human rights and humanitarian norms.

RESISTANCE FORM THE URIBE ADMINISTRATION

From the moment of the bill's inception, President Uribe presented the biggest obstacle to the victims' law project. Even though many legislators within his party supported it in principle, Uribe vehemently opposed the law on the grounds that it presented a real threat to his policy of democratic security. The law, he claimed,

[216] See: *ICTJ Program Report: Colombia*. (http://ictj.org/news/ictj-program-report-colombia)

essentially put agents of the state on equal footing with terrorists by recognizing victims of the state. He argued that Colombia already had in place judicial mechanisms to try alleged crimes by state security forces and to compensate their victims, the majority of whom were IDPs. He refused in any way to officially recognize that there was an internal conflict in Colombia, perhaps because doing so would subject Colombia to increased international humanitarian scrutiny and would provide a demoralizing blow to Colombia's armed forces. The administration's most public objections were centered on the law's alleged prohibitively high financial cost. He called the law's sponsors irresponsible and estimated that the approximately 80 trillion Colombian pesos in reparations would provide an irreparable trauma to the state's finances.[217]

The significant international attention generated by the law, however, made it difficult for Uribe to halt its momentum in Congress. This even surprised some Colombian observers. According to Sánchez:

> *"The influence exercised by the international community on issues of human rights reduced the margin of manoeuver of local interest groups. Consequently, once the initiative was presented it became very difficult to reject it, since the political costs were simply too high.*[218]

Sánchez claims that during the debate over the bill in Congress, international organizations reacted to developments in Colombia practically in "real time," which was uncommon for entities of this type that tended to exercise what he refers to as an *ex post* facto control of the issue (Sanchez 2009).

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[217] See: Presidencia de la Republica, *Comunicado No. 305*, June 18, 2009 (http://web.presidencia.gov.co/comunicados/2009/junio/305.html)
[218] See Sánchez (2009). My translation.

Uribe first attempted to kill the new bill in congress by upgrading the existing victims' reparations mechanisms through presidential decree (Decree 1290 of 2008). When this failed, he finally sunk the bill after almost two years of debate, during the conciliation process in congress, by convening a meeting at the ministry of interior where he asked his party to shelve the law. Although Uribe asked legislators to kill the bill on fiscal grounds, many understood that the President's real concern was the bill's recognition of victims of the state. According to Senator Cristo (2012), the fight over the bill essentially was one between two competing visions of the conflict in Colombia. The official line was that there was no internal armed conflict in Colombia. The country was only experiencing a "terrorist threat" and problems of common criminality.[219]

Uribe's vision of the conflict in Colombia, although increasingly untenable, was in fact the same position the government had maintained since the period of *La Violencia*. Despite the great human cost and length of the conflict, Colombia's governing elites had been able to deny the existence of war in Colombia because the fighting had been of relatively low intensity, it had been mostly confined to the countryside, and the government was never really in danger of falling to the insurgents. It was relatively easy to dismiss the guerrillas as criminal gangs because they had become increasingly involved in criminal activities like kidnapping and the drug trade. By the 2000s, the left-wing guerillas had also lost their ideological footing. During most of this period, according to a number of international observers interviewed, as long as Colombians continued to hold regular elections and the economy continued to grow, the international community was more than willing to accept the government's version of the situation. In practical terms, the denial of the existence of an internal conflict shielded Colombia from

[219] See: *Semana*. "Gobierno deja a las víctimas sin su Ley." June 18, 2009. (http://www.semana.com/nacion/conflicto-armado/articulo/gobierno-deja-victimas-su-ley/104260-3)

much international scrutiny. It also absolved the government from addressing the needs and claims of the victims of the conflict, most of whom were IDPs, in any sort of systematic way. In fact, it made the victims, who were mostly rural and poor peasants, virtually invisible to most of Colombian society. After all, how could there be victims of a conflict that did not exist?

In a way Uribe had consistently tried to "put the genie back in the bottle" by attempting to reverse the achievements of the human rights campaign in Colombia, and reverting to the traditional official discourse about the conflict. However, by this time a robust network of domestic and international players that had been growing in support of human rights and the rights of IDPs made this increasingly impossible despite Uribe's significant popularity. In my view, this presents strong evidence that by the end of 2000s Colombia had in fact achieved a robust level of compliance.

Increased attention and involvement by the international community in Colombia's conflict, in the form of monitoring and international lobbying by IOs and INGOs and a visible US military presence in Colombia, made the government's denial of an internal conflict increasingly preposterous. Moreover, the fact that Colombia had – as its own government had finally come to recognize – a sizable IDP population, which surpassed in number that of most countries at war, made the government's position untenable. Uribe's departure from office in 2010 finally created an opening for the Colombian government to recognize the internal conflict and to pass a robust Victims' Law.

Although Uribe remained tremendously popular in Colombia, he was barred by a Constitutional Court ruling from running for office for a third term, which he would certainly have won. By all accounts, his hand-picked successor and Minister of Defense Juan Manuel Santos appeared destined to continue Uribe's hard line policy of democratic

security. To the surprise of many, Santos initiated a radical shift in Colombia's security and human rights policy and breathed new life into the victims law project that had been shelved in congress.

SANTOS ADMINISTRATION

Within the first few months of his administration (during the fall of 2011) Santos made it clear that he would follow his own agenda. Although he openly lauded his predecessor for preventing Colombia from becoming a failed state and laying the foundations for an economic boom, he took a number of steps that were strongly repudiated by Uribe. He undid many of the institutional reforms initiated by Uribe and formed a "National Unity" coalition government that embraced some members of the opposition including the Liberal Party.[220] He reestablished relations with Hugo Chavez' Venezuela, which Uribe had accused of harboring FARC camps and leaders. Most significantly, he signaled his openness to negotiate a peace agreement with the FARC.

Soon after his election, Santos met with the leaders of the Liberal Party to discuss the terms of that party's inclusion into the National Unity coalition and agreed on the spot to push through the Victims' Law. Only days after taking office, Santos publically declared that the expedited passage of this law was his administration's first priority. In fact, he went even further by expanding the law by appending to it an ambitious land restitution initiative that had been previously proposed by the Conservative Party (Cristo, 2012).

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220 *The Economist*. "Colombian Politics: Santos vs. Uribe." April 7, 2012. (http://www.economist.com/node/21552204)

According to Cristo (2012), by making the Victims' and Land Restitution Law his biggest priority Santos took a historic gamble that was to set the tone for the rest of his administration. Santos made this clear at the time of the laws' unveiling when he declared before an assembly of legislators, victims' groups, and international observers that: "*If at the very least we manage to pass this law and to apply it successfully then it will have been worth the while for me to be the president of all Colombian*s." What accounted for such an abrupt shift in policy? Few have been able to successfully explain why Santos revived the Victims' Law and broke ties so publically and so decisively with his former mentor.[221]

POSSIBLE EXPLANATIONS FOR 1448

There are several explanations that might account for such a radical shift in policy and for the revival of the Victims' Law project during the Santos administration. First, President Santos was a very different type of leader from Uribe. He personally believed that Colombia was ready to turn the page and bring an end to its internal armed conflict. Moreover, unlike his predecessor, he was not afraid of negotiating with the FARC. Second, Santos also understood that in order to bring a lasting peace to Colombia the issue of abandoned and stolen lands had to be resolved and the that the rights of the conflicts' victims, most of whom were IDPs, had to be recognized. Finally, Colombia

[221] With more than 900,000 followers, Uribe made prolific use of his Twitter account, as well as a number of television appearances, to attack Santos and the new law. He questioned the law in general, and in particular the feasibility of restituting abandoned and stolen lands. He insisted that by officially recognizing the existence of an internal armed conflict and victims of the state Santos was essentially equating the actions of the state's security forces with those of the terrorists. He implied that the law put in peril the very survival of the "democratic security" his administration had worked so hard to put in place (Cristo, 2012). Uribe's very public break with Santos led to an internal fight for control of their political party, which Santos eventually won.

would have to make some significant human rights concessions in order to come out from a state of international isolation in which it found itself after eight years of heavy handed policies. The following section will examine each of these factors in more detail.

Presidential Leadership

One of the reasons explaining Santos' radical break from his mentor and former boss was that Santos came from a very different background and had a different governing style. Uribe had originated from the landed class of the populous province of Antioquia in the country's periphery. In contrast, Santos came from the capital's urban bourgeoisie. He was a member of a very established, wealthy, and influential family from Bogotá, which was the majority shareholder of *El Tiempo*, Colombia's most important newspaper. While Uribe's style was described as intense and folksy, Santos was seen as more cerebral and urbane.[222] According to a highly placed foreign diplomat in Colombia this made a big difference. Santos represented a Colombian elite class that had, over time, fundamentally shifted its attitude with regards to the country's internal conflict.

Having been somewhat sheltered from the conflict, which was mostly confined to the periphery of the country, these elites did not share the same level of animosity towards the guerrillas. But most importantly, having witnessed the peace processes in Central America, these elites had come to believe that they had little to fear from negotiating an end to Colombia's conflict. While a negotiated peace would most likely boost the country's economic development, it was also likely to leave Colombia's

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[222] *The Economist*. "Colombian Politics: Santos vs. Uribe." April 7, 2012. (http://www.economist.com/node/21552204)

traditional power structures intact as it had in Central America. These elites viewed the end of the conflict as a necessary first step to attract urgently needed foreign direct investment, to access new markets and to finally begin exploiting Colombia's extensive untapped natural resources. This shift in attitude was not necessarily shared by its regional elites, many of whom, like Uribe, harbored intense personal hatred towards the insurgency.

Unlike Uribe, Santos understood that peace could only be achieved through a negotiated solution to the conflict. Although previous attempts to negotiate with the FARC had faltered on various occasions, Colombians increasingly accepted the fact that the FARC could never be entirely defeated militarily – particularly as long as the group enjoyed the covert support of neighboring Venezuela and Ecuador, as well as a constant flow of cash from the illicit narcotics trade fueled by America's insatiable appetite for drugs. Moreover, the conflict was tremendously costly and until it was finally resolved it would remain Colombia's principal obstacle to growth.

By the time he took office, Santos saw that the time was right for negotiating with the FARC. After a pounding military offensive that had lasted over a decade, the guerilla group was debilitated, demoralized, and fragmented enough to agree to sit at the negotiating table. By 2010, the balance of power had clearly shifted in favor of the state. The guerillas had been driven out of many areas they had traditionally controlled and their military capability had been weakened by the resurgence of state security forces funded by Plan Colombia (DeShazo, Primiani, & McLean, 2007). These had decimated the ranks of the FARC, hobbled communication between their units and left them vulnerable to infiltration. By 2009 the FARC forces, which at its peak in the 1990s had

been estimated to number 17,000, were thought to have shrunk down to 9,000.[223] Its leadership was reported to have lost its grip on its foot soldiers, which operated across jungle, plain and mountain ranges hundreds of miles apart.[224] Between 2005 and 2010 Colombian security forces also dealt the FARC a series of significant blows by killing a significant number of field commanders and key members of their central command structure. As a result some second-tier commanders were beginning to turn themselves in to the authorities for fear of being killed by areal attacks or by their subordinates.[225]

The FARC had also lost significant popular support during the previous two decades. Their increasing use of kidnapping and involvement in the drug trade as a means of financing, the forced recruitment of child soldiers, widespread use of land mines and their responsibility for an increasing number of massacres and human rights violations had made the FARC tremendously unpopular with the majority of Colombians. On February 4, 2002, in a movement dubbed "A Million Voices Against the FARC,"

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223 See: *New York Times*. "Colombia Explores Talks with FARC." August 28, 2012. (http://www.nytimes.com/2012/08/28/world/americas/colombia-in-exploratory-talks-with-farc.html). *Global.Security.ogr*. FARC. (http://www.globalsecurity.org/military/world/para/farc.htm).

224 See: *Reuters*. "FARC ready for peace or war, says French reporter." May 31, 2012. (http://www.reuters.com/article/2012/05/31/colombia-farc-idUSL1E8GVHWX20120531).

225 In an air raid on March 1, 2008, of a FARC camp inside of Ecuador, the Colombian military killed second in command Raúl Reyes together with 17 other guerillas. Later that month Manuel Marulanda Velez (known as "Shure Shot") the FARC's founder and commander in chief since the 1960s, was reported to have died of a heart attack in the jungle.
In March 3, 2008, Iván Ríos (José Juvenal Velandia), the head of the FARC's Central Block and a member of the guerilla's Central High Command, was killed by his security chief, who had turned government informant, on 3 March 2008 in a mountainous area of Caldas.
The FARC's top military commander Mono Jojoy (Víctor Julio Suárez Rojas) was killed on September 23, 2010, during the areal bombardment of a guerilla camp in the department of Meta, 120 miles south of the capital Bogotá.
On November 4th 2010, Alfonso Cano (Guillermo León Sáenz Vargas), the leader of the FARC who replaced Manuel Marulanda Velez as the organization's Commander-in-Chief, was killed in a helicopter attack in the southwestern department of Cauca.

millions of Colombians dressed in white staged separate marches in 27 cities calling for an end to the guerilla group.[226]

1448 As a Key to Securing a Lasting Peace

The Santos administration understood that addressing Colombia's IDP problem and the claims of its many victims was a necessary first step to finally securing a peace agreement with the guerillas.[227] For too long Colombia's perpetual violence had been fed by a cycle of unresolved grievances and the country's failure to address the question of land ownership. The institution of the Victims' Law provided Santos with an opportunity to jumpstart the negotiations and guaranteed him a strong position at the negotiating table.

Santos took a number of additional steps that would help pave the way for an end to the conflict. These included reforming the military justice system, instituting additional reforms to the Justice and Peace law, initiating a rural reform program and defining the legal framework for negotiations. Negotiations with the FARC finally began in Oslo in September 2012 and later moved to Havana.

Preceding the negotiations Santos openly admitted that the Victims' and Land restitution law would undermine the rebels by taking away one of their crucial initiatives. When the FARC's lead negotiator referred to the law as a "trap" Santos responded during a radio interview by saying that: *"[w]hen these gentlemen from the FARC say that this law is a lie it's because…they know full well that this is something that takes away from*

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[226] See: *Bloomberg*. "Colombia Stages 'Million Voices' March Against FARC." February 4, 2008. (http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aFXKi88tH.VE&refer=latin_america).
[227] Interview with key UN official in Bogotá. July 23, 2013.

one of their propaganda banners."[228] In a way, the law turned the state into the allies of the dispossessed. After all, it was the state and not the FARC that would most easily permit the return of stolen lands to their owners. Not surprisingly, the law caused peasant organizations eager to enforce the law to gradually distance themselves from the guerilla group and to begin talking with the government (Cristo, 2012).

Prior to the negotiations, the FARC argued vehemently that the law was a trick, and returning land to peasants who lacked the means to make it productive would likely encourage them to sell it cheaply to international corporations.[229] This, however, only amounted to little more than political posturing. During his Christmas address in December 2010, the FARC's leader Alfonso Cano eventually expressed cautious approval of the law, recognizing that its land restitution component could have a positive effect on the conflict (Cristo, 2012). By May of 2013 both sides negotiating in Havana finally reached a deal on rural development and land reform. Given that the agrarian issue laid at the center of Colombia's conflict, this was a truly historic development. According to a Colombian Senator and member of the governing coalition, the agreement was perhaps: *"…the most important thing that had happened in the last 100 years in the country*," recognizing that the issue of land easily represented *"60 percent of the peace agreement*."[230]

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[228] See: *Reuters*. "Colombia's Santos: Land restitution law undermines rebels." October 19, 2012. (http://www.reuters.com/article/2012/10/19/colombia-rebels-idUSL1E8LJ68T20121019)

[229] Ibid.

[230] *Christian Science Monitor*. "Colombia, FARC rebels make peace progress with land deal." May 28, 2013. (http://www.csmonitor.com/World/Americas/Latin-America-Monitor/2013/0528/Colombia-FARC-rebels-make-peace-progress-with-land-deal)

1448 as a Means of Addressing Colombia's International Isolation

Santos' endorsement of the Victims' and Land Restitution Law was also a decisive effort aimed at repairing Colombia's image in the world and improving the country's international standing. After eight years of an authoritarian government Colombia found itself more isolated internationally than ever before. The country had come under significant international criticism for a myriad of human rights scandals during the Uribe administration and, at the time, was facing a serious international image problem. By the time Uribe left office, a number of well-publicized human rights scandals had severely tarnished Colombia's international image.[231] These scandals had created problems for Colombia during trade negotiations with the US and the EU, which by that time had essentially stalled. The Obama administration was in no rush to accelerate debate in Congress and for some time had gently pressured Colombia to show progress on the human rights front.

According to Senator Cristo, Colombia also suffered from "*almost total isolation in the hemisphere*."[232] Plan Colombia, and the presence of American bases in the territory aggravated Colombia's neighbors, many of whom feared that it would broaden the military reach of the United States in the Andes and the Caribbean at a time when they were still wary of American influence in the region.

In March 2008, the Colombian areal bombing of a FARC camp in neighboring Ecuador that killed Raúl Reyes (FARC's second-in-command) degenerated into the worst

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[231] These included the scandal known as "*La chuzada*" (the illegal electronic eavesdropping by domestic intelligence services of human rights workers, journalists, academics and judges); the alleged links between Uribe's political allies and paramilitary forces (also known as the "*parapolítica*" scandal); Uribe's very public confrontation with the courts and the "*false positives*" scandal. See See: *El Espectador*. "Un paíz de chuzadas y espionaje." February 4, 2014. (http://www.elespectador.com/noticias/judicial/un-pais-de-chuzadas-y-espionaje-articulo-472917)

[232] Interview with Senator Juan Fernando Cristo. July 10, 2013. Bogotá.

diplomatic crisis the region had seen in years.[233] Although the crisis, mediated by the Dominican Republic, eventually ended in handshakes, the result was that Colombia and the US emerged more isolated than ever in the region. Relations with neighboring Venezuela continued to degenerate after Uribe claimed to have obtained hard evidence, from Raúl Reyes' recovered laptop, that proved that Venezuela had been harboring FARC and ELN rebels. By the time Santos was elected, there was talk of a possible war with Venezuela. Only days after taking office, in August of 2010, in a defining break with Uribe's contentious style, Santos insisted on "turning the page" with its neighbor and personally met with Chavez to reestablish diplomatic ties with Venezuela.[234]

By signing the Victims' and Land Restitution Law, Santos sent a powerful signal to the international community that Colombia was also "turning the page " on its own history of violence and human rights abuses. According to Senator Cristo, Santos committed himself completely to the project because: "*it provided him with an instrument of international and domestic legitimacy*."[235] Santos' attitude on the issue of justice and reparation was markedly different from that of his former boss and according to Cristo: *"…sounded like celestial music to the ears of the international community*." Eventually, even the harsh criticisms received as a result of the "*false positives*" scandal begun to attenuate slowly (Cristo, 2012).

The law essentially became, as a major Colombian newspaper recognized: the "*key to launching Colombia's international relations,*" and "*evidence of the country's*

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[233] Venezuela and Ecuador immediately assailed Colombia for having violated Ecuador's sovereignty, cut diplomatic ties and sent troops to the Colombian border. Leftist led Nicaragua also cut diplomatic ties. Hugo Chávez vowed war if Colombia ever pursued its fight with the FARC into Venezuelan territory and Colombia was officially censured by the OAS. See: *New York Times*. "Settling of Crisis Makes Winners of Andes Nations, While Rebels Lose Ground." March 9, 2008. (http://www.nytimes.com/2008/03/09/world/americas/09colombia.html)

[234] See: *MercoPress*. "Santos/Chavez admit differences but restore diplomatic relations." August 11, 2010. (http://en.mercopress.com/2010/08/11/santos-chavez-admits-differences-but-restore-diplomatic-relations)

[235] Interview with Senator Juan Fernando Cristo. July 10, 2013. Bogotá.

shifting policy on matters of human rights… the determining factor in de-freezing the process over the FTA with the United States."[236]

It is evident that Santos understood the international symbolic power of the law. At a meeting with legislators, Santos recounted how the Colombian Ambassador to the US, Gabriel Silva, had told him that the perception of Colombia in the US had changed radically. As a result of the law's passage, Colombia was now being perceived as a "civilized and democratic society." The Ambassador assured the President that the law would enormously improve the chances of the FTA's passage. According to Cristo (2012), there really could not be a better issue with which to reestablish Colombia's leadership position in the region and to situate the country as a privileged interlocutor with the United States and the European Union. The US Congress passed the trade agreement with Colombia on October 12, 2011 and it went into effect on May 15, 2012.[237] A free trade agreement with the EU went into effect a year later.

1448 AS A STEP BACKWARDS?

A number of human rights experts have received Colombia's new Victims' Law with guarded skepticism. Although, in principle, they have welcomed Colombia's official recognition of the internal armed conflict and the robust measures of transitional justice embodied in the law, they fear that, in some respects, the new initiative could produce some backsliding with regards to IDP rights.

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[236] El Espectador. "Juan Fernando Cristo: 'La ley es fruto del consenso.'" May 1, 2011. (http://www.elespectador.com/noticias/politica/juan-fernando-cristo-ley-fruto-del-consenso-articulo-266577)

[237] See: *BBC News*. "Colombia-US free trade agreement comes into force." May 15, 2012. (http://www.bbc.com/news/world-latin-america-18069469)

These activists recognize that in some ways the Victims' and Land Restitution Law stole much of the momentum generated by the Constitutional Court's crusade to secure the rights of IDPs. It arguably returned the initiative over Colombia's policy on human rights to the executive. They also recognized that the law, as laudable as it was, remained largely a promise, which would be difficult to implement – particularly given the limited capacity of the state and the continuation of the conflict.

The law indeed diffused much attention from some real progress that was being made by the Constitutional Court and its Follow-up Commission. By reorganizing a number of state bureaucracies and redefining the government's measures of attention to IDPs, the law also invalidated many of the courts' orders that had proven to be a real headache to the Uribe administration.[238] Some observers, such as Colombia's legal scholar Roberto Carlos Vidal Lopez, have gone so far as to suggest that, in part, Law 1448 may have been an attempt by the executive branch to wrestle back control of its IDP policy from a powerful independent court. [239] As previously discussed, the state had come under a lot of stress as a result of T-025. The executive branch had lost much of its autonomy with regards to Colombia's internal displacement policy, and by default, had lost control over a significant part of the state budget to the Court.

The Constitutional Court itself recognized the possibility that it was being relegated to the sidelines as a result of Law 1448. After all, the executive branch had retaken the initiative and halted much of the momentum generated by the Court. Indeed, many of the Court's orders were invalidated when 1448 effectively re-shuffled the whole government bureaucracy that was attending to the rights of IDPs.[240] While the bill was

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[238] Interview with Roberto Carlos Vidal López. April 18, 2013. Bogotá.
[239] Ibid.
[240] Interview with Clara Elena Reales (former attorney in Colombia's Constitutional Court). July 10, 2013. Bogotá.

still being debated in Congress, the Court issued a ruling (Auto 219 of 2011), which reiterated the "unconstitutional state of affairs" with regards to displacement, reminded the government that it would continue to be bound by the Court's previous orders, and warned the state that it could not derogate its responsibilities towards IDPs by creating a new category of "victims."

Human rights activists have expressed a number of additional frustrations with the law. Among other things, they fear that the law essentially killed the possibility of reintegrating IDPs in areas of reception where they continue to live in very poor conditions. They point to the fact that most IDPs in fact do not wish to return to their places of origin particularly because, in many cases, the threats that drove them away in the first place have not dissipated. According to a Senior Associate at WOLA, this essentially made a mockery of the international humanitarian principle of *non-refoulement*, and more significantly, has been responsible for additional bloodshed.[241] [242] As long as the conflict is ongoing and the armed groups remain present in the countryside, people seeking restitution of their lands have been put in very risky situations. In fact, many IDPs who returned to the sights of displacement to reclaim their land were again threatened and even killed. In the first two years following the law's implementation at least 20 IDP leaders were assassinated.[243] In the absence of effective protection mechanisms, the implementation of this law is bound to create more bloodshed.

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[241] Non-refoulement refers to the principle of not forcibly returning or expelling refugees or IDPs to places where their lives or freedoms could be threatened.

[242] Interview with Gimena Sánchez-Garzoli (WOLA; formerly at Brookings' IDP Project). March 28, 2013. Washington, DC.

[243] See: US Office on Colombia, *Against All Odds: The Deadly Struggle of Land Rights Leaders in Colombia*. October 2011 (http://www.usofficeoncolombia.org/uploads/application-pdf/againstalloddsfinal.pdf)

These advocates also claim that, several years after the law's passage, the Colombian government has already been ignoring many of the Constitutional Court's previous orders and decisions. They claim, for example, that the state failed to follow through with mechanisms to engage IDPs in ongoing consultations (known in Colombia as "consulta previa") during the process of the law's implementation. Consequently, the state has steamrolled over collective land rights of IDPs in traditional indigenous and Afro-Colombian communities (for example in Afro-Colombian communities of Curvaradó and Jiguamiandó, in the department of Chocó).[244]

Arguably, Law 1448 represented a step back with respect to a number of IDP rights such as the rights to resettlement and consultation. The absence of appropriate security guarantees is of particular concern here. It is also true that the law has relegated the Constitutional Court to a lesser role. However, that was to be expected because the Court institutionally was not in a position to dictate public policy indefinitely. Eventually the state had to be allowed to take ownership over such an important issue. The critical fact is that the government's new legal framework of IDP protections incorporated most of the advances and concessions fought for by the Court and the Follow-Up Commission. Most importantly the law effectively put land restitution and the protection of victims' rights at the forefront of the government's agenda for the first time. Law 1448 also allocated significantly more resources to addressing the problem of displacement than Law 387 ever did. Moreover, by officially recognizing Colombia's internal conflict, the law effectively committed the country to international humanitarian law.

It is not surprising to hear some quibbling on this matter within the human rights community. Close to a decade of fierce battles with the Uribe administration left them

[244] Interview with Gimena Sánchez-Garzoli (WOLA; formerly at Brookings' IDP Project). March 28, 2013. Washington, DC.

skeptical at best, and cynical at worst, of any government initiative. As a veteran human rights worker explained to me, in general, human rights advocates tend to call attention to the deficiencies of a governments' policy. In many ways, it is their job to do so, with the hope that somehow their stance will result in the improvement of such policies.

Many of the deficiencies to which human rights activists point can be traced to Colombia's shift in frame from addressing the rights of IDPs to more broadly addressing the rights of victims. Although the population affected was largely the same, the new frame emphasized rights of transitional justice (i.e. to truth, reparation, and restitution) over some of the peculiar needs and rights that IDPs had by virtue of being displaced. This did not necessarily mean that the state would ignore these. The international IDP principles outlined in Law 387 of 1997, T-025 of 2004, and the many subsequent Constitutional Court orders remained very much in place, and in some instances were incorporated into the text of the new law. The shift in frame did, however, imply a less focused approach towards displacement. Ultimately, Law 1448 and Colombia's deepening commitment to international human rights, which the law symbolized, were a significant victory for Colombia's IDPs. The vast majority of country observers and human rights activists interviewed agreed that, despite some problems, Colombia's Victims' Law overall represented a tremendous step forward in addressing the rights of IDPs.

1448 As a Major Step Forward

Despite these problems, very few human rights advocates would go as far as to suggest that 1448 was a bad law, or to question Santos' ultimate motivations. Most

recognize, however, that the law has put human rights and IDP defenders in a bind.[245] While they acknowledge the law offers a great legal and institutional framework to promote the rights of IDPs they also recognize that the law was far from perfect. It certainly could be improved if it followed international standards a little closer and fine-tuned its mechanisms for IDP participation. However, by most accounts, it is without a doubt the best law of its kind ever produced internationally and it represents a decisive step for Colombia (UNDP & Fundación Social, 2011).

Many observers also recognize that the law presents challenges that are going to be very difficult to overcome. It is very unlikely that Colombia could successfully repair all victims and return all stolen lands within the intended timeframe of ten years. The situation with land titles is certainly messy and the Ministry of Agriculture, which has the responsibility for coordinating the bulk of the restitution effort, may be in a difficult position to do so, since it has historically been one of the most impoverished and marginalized entities in the Colombian government.[246]

This said, no one I interviewed considered the Victims' and Land Restitution Law to be an exercise in "window dressing." Given the high levels of international expectations elicited by the Law as well as the fact that so many international entities and donors are heavily invested in its implementation, this law is unlikely to meet the same fate as Law 387, which was essentially forgotten for a number of years. Colombia is arguably in a very different situation than it had been a decade earlier.

One of the interesting aspects of Law 1448 is that it incorporates a number of international soft law instruments and norms in addition to the *UN Guiding Principles on*

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[245] Interview with Andrea Lari (Programs Director, Refugees International). March 29, 2013. Washington, DC.

[246] Interview with Jorge Orlando Melo (Colombian journalist and former Presidential Advisor for Human Rights;). July 18, 2013. Bogotá.

Internal Displacement. According to Representative Guillermo Rivera, who sponsored the law in the House of Representatives, the drafters of the law conducted a thorough review of international norms regarding the transitional justice and victim reparation with the help of the UN representative in Colombia.[247] The law incorporates more broadly international norms regarding transitional justice and victims' rights to truth, justice and reparation. It takes into account for example the "*UN Principles on Housing and Property Restitution for Refugees and Displaced Persons*" also known as the "*The Pinheiro Principles*." It also takes into account another soft law instrument known as the *Joinet Principles* to Combat Impunity, which were ignored during the drafting of Colombia *Peace and Justice Law*.[248]

LAW 1448: CONCLUSIONS

The Victims' and Land Restitution Law of 2011 has arguably made Colombia into the country with the most advanced institutional responses to internal displacement in the world. Like the two previous achievements (Law 387 and T-025) Law 1448 was the product of coordinated domestic and international efforts suggestive of a "boomerang" strategy of activism. There were several mechanisms at play.

First of all, the victims' rights movement in Colombia had its origins in the success of a similar movement in Spain. It flourished and gained prominence in Colombia through a process of learning and trans-national networking that was led by Spanish activists. This dynamic, in fact, was reminiscent of a similar process that took

[247] Interview with Representative Guillermo Rivera Flórez. July 23, 2013. Bogotá.
[248] Interview with Nelson Camilo Sánchez (DeJusticia). April 11, 2013. Bogotá.

place during the 1990s where Colombia's IDP movement was engendered from the Central American experience.

Secondly, the network of international organizations (i.e. UN agencies, the Inter-American Human Rights Court and Commission) and INGOs that had set up a presence in Colombia since the late 1990s became instrumental in drafting, promoting and fighting for the integrity of Colombia's Victims' Law. By the late 2000s these organizations had a sizable presence in the country and were clearly pushing their weight around.

A third component of this strategy was the exercise of international instrumental pressure, most notably through trade negotiations whose outcome was implicitly linked to Colombia's human rights record. In this respect, the United States continued to play an important role as an agent of change. To a perhaps lesser extent, the country's regional isolation was again a motivator for Colombia to reassert its commitment to international human rights norms. On the flip side, the promise of international support in the form of funding and technical assistance from the US and other western countries may have facilitated Colombia's commitment to the process of transitional justice.

A number of structural domestic factors were critical in facilitating Colombia's deepening commitment to the IDP and more generally with the human rights regime in 2011. The first of these is presidential leadership. As with Law 387 of 1997 it is difficult to imagine that Colombia's Victims' Law would have become a reality without the backing of the presidency. After all, Uribe had managed to arrest human rights progress during his two terms in office. Despite the outspoken opposition by Uribe, his enormously popular predecessor and former mentor, Santos took a significant gamble, and managed to rally the rank and file of his party behind the law project, reconstitute a governing coalition, and mobilize the resources necessary to implement such an ambitious and complex policy.

It is difficult to ascertain to what extent Santos, like Samper before him, was motivated by genuine ideological beliefs, and to what extent he was guided by a pragmatic sense of opportunism in pushing though the Victims' Law. The most likely scenario is that he was motivated by a little bit of both. Ultimately his decisions, like that of Samper before him, ended up benefiting the international standing of both the country and his administration. Santos' turn in favor of human rights clearly paid off by accelerating the passage of Colombia's free trade agreements with the US and Europe.

A second critical structural factor that facilitated the institution of this law was the prospect of an end to the conflict. The shift in the balance of the conflict that was made possible by Plan Colombia and Uribe's heavy-handed assault on the guerrillas made addressing the IDP crisis from the vantage point of transitional justice both much more feasible and necessary.

It is much easier to address the needs of IDPs once a conflict has ended, or in the case of Colombia, subsided significantly. Among other things, when the conflict subsides the flow of IDPs decreases, displaced persons are more willing and likely to return to their place of origin, the state is in greater control of the territory and is more willing to divert resources away from the war effort and to address the needs of its victims. The state is also more willing to seek reconciliation and less likely to treat victims and IDPs with suspicion.

In order to achieve a final end to Colombia's half-century-long conflict it was necessary to implement some sort of transitional justice process, and in particular, to resolve the issue of abandoned and stolen lands. Without this type of resolution the cycle of grievances would eventually lead to greater political instability and a perpetuation of the high level of violence which had characterized most of Colombia's history. Law

1448 was necessary to promote social cohesion, foster trust in the state, and reestablish the rule of law.

The story of Law 1448 and the shift in frame that it implicated suggests another important lesson, namely that local actors play a much more central and autonomous role than expected in the process of international norm diffusion. Much of the literature on norm diffusion tends to portray countries as passive recipients of international norms. Countries either accept or reject foreign norms. At best local agents reconstruct foreign norms, or "localize" them to better fit their countries' cognitive prior identities (Acharya, 2004) or engage in boomerang politics (Keck & Sikkink, 1998). In either case the initiative of norm diffusion lies mostly in the hands of foreign norm entrepreneurs who pressure and socialize states into compliance.

What the Colombian story illustrates is that local activists play a much more central role than previously believed. They pick and choose among international norms that best fit their agenda, in turn enlisting the help of transnational networks to pressure the state to comply with these. When a norm outlives its usefulness, local agents may choose to champion a new norm, changing their discourse and forging new international alliances. In the case of Colombia's displacement crisis in the late 2000s, activists gradually reframed the issue of the crisis within the frame of transitional justice and increasingly less as an issue of forced migration, in order to better fit the historical moment and tag onto a powerful new foreign norm.

SUMMARY OF CASE STUDY

The last three chapters told the story of how Colombia, over the span of over two decades, gradually developed into a case of deep compliance with the international IDP

regime. As these chapters suggest, Colombia's evolving compliance with the international regime to protect IDP took place in three major phases.

During a first phase Colombia became rhetorically committed to protecting its IDP population. More specifically, by the late 1990's the Colombian government took a series of important steps. The state acknowledged the existence of an important humanitarian crisis in Colombia. It began to differentiate internal forced displacement from other forms of economically-driven internal migration. It recognized the its responsibility for protecting this vulnerable population. Most importantly, however, the state recognized its obligation to comply with a number of emerging international norms on internal displacement. This phase culminated in one of the earliest and most comprehensive national legislations on internal displacement in the world – Law 387 of 1998.

In a second phase, detailed in Chapter 4, Colombia moved from rhetoric into action finally implementing its new law. During this phase Colombia also recognized the UN Guiding Principles as constituting binding international law. Despite a heavy-handed attempt by a popular administration to rollback Colombia's commitment towards its displaced population and with these principles, a powerful judiciary succeeded in forcing the state to implement its IDP Law. Colombia's Constitutional Court also established some of the most advanced and elaborate institutional frameworks to protect IDPs and monitor compliance with the Guiding Principles thus ensuring that the genie could not be put back in the bottle. This experience would suggest that, in the absence of international monitoring and enforcement mechanisms, a powerful and independent judiciary is a necessary but not sufficient condition for implementation.

During a third phase, and in a context of transitional justice, the Colombian government redoubled its commitment to protecting the rights of its IDP population by

putting in place an ambitious and unprecedented program of reparation and land restitution. Although it is still too early to determine the success of Colombia's Victims' Law's implementation, Law 1448 had arguably made Colombia into a case of robust compliance with international IDP norms.

In attempting to understand the events that led to these three historical benchmarks for the protection of IDPs—Law 387 (1997), the Constitutional Courts' decision T-025 (2004), and Colombia's Victims' and Land Restitution Law – the last three chapters have identified a number of critical factors that were responsible for Colombia's deepening level of compliance. To one extent or another, these events seem to have resulted from the coordinated efforts of domestic and international activists.

Activists' efforts benefitted from the existence of relatively strong domestic institutions in Colombia that allowed for successful domestic mobilization. These included a vibrant Colombian civil society with a relatively free press, a socially committed Catholic Church, sophisticated academic institutions and a courageous generation of human rights activists and IDP leaders often willing to put their lives in danger. Colombia also benefitted from comparatively strong democratic institutions, particularly an independent and powerful Constitutional Court, which was able to forcefully challenge the executive when necessary and a political constitution in place that recognized the primacy of international law.

International and, in particular, regional pressure appears to have been a key factor in pushing Colombia to address its displacement crisis and to protect the rights of its IDP population. The efforts of the office of the RSG and of the various UN entities that set up a presence in Colombia in during the 1990s served as important catalysts for the promotion of IDP norms. It was, however, regional factors that played the most critical role. Specifically these factors included the preexistence of important regional

norms such as the *Cartagena Declaration* of 1984, which facilitated the adoption of the Guiding Principles. It also included the existence of a well-developed regional human rights activist network, which emerged out of the hemisphere's experience with the wars in Central America and the wave of democratization in the 1980s, that was able to turn its attention to Colombia when the crisis deteriorated in the 1990s. It included powerful regional human rights institutions such as the Inter-American Commission on Human Rights and the Inter-American Court in San Jose, which served both as agents of change and forums of socialization. Finally, it included a powerful regional hegemon, in the form of the United States that used both normative and instrumental means of pressure to compel Colombia into improving its human rights record.

During the 1990s, while the international regime to protect IDPs was still in a phase of early development, the Guiding Principles were still being drafted, and UNHCR had yet to included internal displacement in its mandate, Latin America was ahead of the game having engendered a number of important regional norms and initiatives on force internal migration. By the mid 1990s Latin America also had in place one of the most advanced and sophisticated regional human rights regimes and human rights activist networks in the world. The region's human rights and refugee regime greatly strengthened and matured during the fight for democracy, particularly in the Southern Cone in the 1970s and 1980s, and during the civil wars in Central America during 1980s and 1990s. The peace processes in Central America, in particular, ensured that the region already had some significant experience in recognizing and addressing the problem of internal forced displacement.

This regional history and the institutions it engendered explains, in great part, why countries in Latin America, together with countries in Europe and Central Asia, were

some of the first to comply with international norms for the protection of IDPs, as was suggested in the statistical study (Chapter Two).

The last three chapters presented a number of illustrations of how and why regional factors mattered. Following the third wave of democratization in Latin America and the end of the conflicts in Central America, the regional human rights apparatus turned its attention to the war in Colombia, which at the time represented the most pressing humanitarian situation in the hemisphere, and in the process internationalized the conflict. During the drive up to the institution of Law 387 in the late 1990s and before the UN Guiding Principles were in place, the 1984 Cartagena Declaration on Refugees provided the basis for Colombia's legislation. During this time Central American human rights experts assisted the Colombian government to begin to conceptualize the problem and draft its initial policy on internal displacement. The Permanent Consultation for Displacement in the Americas (CPEDIA) even provided the first working definition of internal displacement. A number of INGOs that had previously worked in Central America – most notably The International Council of Voluntary Agencies (ICVA) and the Inter-American Institute of Human Rights (IIDH) – also played a critical role in organizing, funding, and training of Colombia's NGOs so that these became more legitimate and more effective advocates for IDP rights. During the late 2000s, the push for a victims' rights law was once again inspired by developments in another Spanish-speaking country. Spanish norm entrepreneurs both motivated and supported Colombia's victims' movement to such an extent that Former Spanish Prime Minister José María Aznar was elected Honorary President of the Colombian NGO Víctimas Visibles.[249]

[249] See: Fundacion Víctimas Visibles (http://fundacionvictimasvisibles.org/fundadores).

The regional human rights network, particularly through the work of the Inter-American Human Rights System, was responsible for raising international awareness on the Colombian crisis, which made it very difficult for the government to continue to ignore the problem. When the Colombian government failed to properly implement its policy on internal displacement or even tried to roll back its commitment towards IDPs during the Uribe administration, Latin American human rights organizations based in Washington effectively lobbied the US government to apply its significant material leverage to hold the Colombian government accountable.

In this regard, it may be argued that the US' history in the region had a subtle yet powerful influence on Colombia. As the US became increasingly ensnarled in Colombia's conflict following the implementation of Plan Colombia during the 2000s, the specter of the US's problematic past involvement motivated the US to make the promotion of human rights a priority in Colombia. In many ways the regional human rights network had sensitized US policymakers enough for them to attempt to avoid the types of gross human rights abuses that had resulted from former US interventions in the region.

The case of Colombia illustrates how regional factors influence norm diffusion via a number of channels that combine both normative and instrumental means of pressure. The following final chapter will analyze more closely this study's findings while suggesting a number of additional cases of internal displacement around the world that may be included in a future research agenda.

Chapter 6: Conclusion

Why and when do states chose to commit to the international regime to protect IDPs and implement international rules that are essentially non-binding and can be politically costly? Aside from some scattered anecdotal evidence, until now there has been little empirical proof that "soft laws," such as the UN Guiding Principles on Internal Displacement (GP), have really made a difference. Nevertheless, many norm entrepreneurs continue to push for "soft law" solutions to address a number of international governance challenges, both within and outside of the world of forced migration (Betts, 2010b).

This study was driven simultaneously by theoretical and policy concerns. Theoretically, the dominant neo-liberal and neo-realist theories of international relations have had difficulty explaining why countries would comply with a regime based on "privately generated soft law" (Abbott, 2007) in the absence of coercion from stronger states or when transactional costs are high. From a policy perspective, as the recent IDP crisis in Syria has demonstrated, internal forced displacement represents an urgent and growing challenge to the international community, not only because of the enormity of human suffering it entails, but also because internal displacement can have significant spillover effects into areas of international security, economic development, and international migration.

In this chapter I will briefly review some of this study's most significant findings, suggest further countries in which to conduct structured comparative case studies, and discuss some policy implications and recommendations from my research.

REVIEW OF ARGUMENT AND FINDINGS

This study has found that two decades after the UN began to address the plight of internally displaced people and fifteen years after the elaboration of the *Guiding Principles on Internal Displacement* the IDP regime is indeed making a difference. Despite its unusual origins and "soft law" nature, the international regime to protect IDPs has compelled a number of countries to institute and implement a number of measures to protect and assist IDPs in various stages of displacement.

International commitment to the GP grew steadily during the period of under review (1990-2010). During this time, an increasing number of countries with IDP crises as a result of conflict and violence instituted domestic legislation in line with the GP. Commitment to the regime increased even among counties that, at least in theory, should have been most disinclined to protect their displaced populations. These included countries with protracted displacement, countries where the state was primarily responsible for displacing its own population, countries in which the conflict was drawn along ethnic lines, countries still at war, and countries with limited or low capacity to comply with the Guiding Principles.

As a particularly encouraging sign, this study found that, on average, countries that signaled a commitment with the IDP regime saw the magnitude of their displacement crisis decrease.[250] Although this study did not examine in more depth the effectiveness of domestic laws, this finding suggests reasons to be cautiously optimistic that the Guiding Principles are having a positive effect on displacement. The case study on Colombia illustrated that institution of domestic protections for IDPs in line with the GP generally benefited the displaced population by guarantying their basic political rights, providing

[250] While on average countries with domestic legislation on displacement saw the proportion of IDPs drop over time in a few cases, such as Colombia, displacement continued to grow despite the implementation of domestic protections.

them with needed humanitarian aid and access to basic services and eventually facilitating the return or reparation of their abandoned or stolen land.

The statistical study suggested that norm entrepreneurs have been largely responsible for driving commitment and compliance with the Guiding Principles. This is perhaps not surprising for a regime that was largely created by non-state actors with very limited involvement of states. In particular, the study found that countries' engagement by the UN special representative on internal displacement (RSG) and the UN's refugee agency (UNHCR) were significant predictors of commitment. Regional human rights organizations such as the Inter-American Commission on Human Rights (IACHR) played an instrumental role in the norms' diffusion. On the other hand, the use of international instrumental leverage by sovereign states, such as economic sanctions or the use of military force, did not have a clear influence on commitment. This does not preclude the possibility that in some cases, such as Iraq, coercion or international material pressure may be effective. It only indicates that, in general, compliance with the regime is driven by normative pressure, particularly at the regional level.

Many factors we would have expected to influence countries' likelihood to commit to the regime did not have a clear and significant statistical effect. These included measures of state fragility, the continuation of hostilities, the size of the displacement crisis, countries' level of embeddedness to the existing international human rights regime, and whether the state was primarily responsible for displacing its own people. This, of course, does not allow us to dismiss these variables all together. In some cases, qualitative evidence suggests that many of these variables did matter. However, the quantitative analysis does suggest that these factors alone cannot tell the

story of commitment and compliance with the regime.[251] By far the biggest predictor of a country's propensity to institute domestic legislation in accordance with the GP during the last two decades was its geographical location. This suggests that regional politics plays a much more central role in the diffusion of IDP norms than originally expected.

THE IMPORTANCE OF REGIONAL EFFECTS

The statistical analysis, summarized in Chapter 2, highlights the centrality of regional isomorphism in predicting commitment to the IDP regime. Specifically, the analysis suggests that a country's regional location is a bigger predictor of commitment than any other factor highlighted in the literature. Countries in Europe/Central Asia and Latin America and the Caribbean are significantly more likely to institute laws on displacement than countries in South Asia, East Asia/Pacific and the Middle East & North Africa. The norm appears to have diffused along regional lines at different times and at different rates. This finding suggests that there is something about the regional variable that can not necessarily be captured by measures of development, democracy, state capacity, and embeddedness, which exerts tremendous influence on countries' likelihood to comply with international norms.

Other studies of norm diffusion have also alluded to this phenomenon. Simmons & Elkins (2004), for example, found clustering in the diffusion of economic liberalization policies, which they explained as the result of a combination of growing competition and

[251] Although a large-n longitudinal examination of all documented cases of displacement is a good place to begin to analyze patterns of commitment with the international IDP regime, there are admittedly important limitations to studying this issue using purely quantitative methods, which were outlined in Chapter 2. In conducting this study I repeatedly ran into the old perennial dilemma of quantitative analysis that: "Not everything that can be measured is important, and not everything that is important can be measured" (attributed to Einstein). This is particularly true of a very complex phenomenon of forced migration where data is often scarce and flawed, and where available proxy variables are often imperfect.

processes of social learning at a regional level. Simmons (2009) suspected that the clustering in her study of commitment with international human rights instruments was primarily due to peer-pressure or countries' attempts to avoid being singled out in regions in which most of their peers had committed to an instrument. To my knowledge, however, no one has examined much in depth or offered a satisfactory explanation of why regional clustering happens. With regards to displacement, it is unlikely that regional clustering can be simply reduced to issues of peer pressure, spillover effects, or reputational costs.

Colombia's growing commitment and compliance with the international IDP regime corroborated the statistical findings, detailed in Chapter Two, and suggested various ways in which regional factors play a central role in the diffusion of IDP norms. Regional clustering appears to occur for a variety reasons. It can happen accidentally, for example, when norms originate out a particular regional experience or event, or when they have their genesis within a particular regional organization in which norm entrepreneurs have privileged access. In the case of Colombia, the Guiding Principles on Internal Displacement gained significant traction because: (1) they resonated with pre-existing regional norms on forced migration; (2) Latin America was blessed with a mature and concentrated regional network of trans-national activism which served as a catalyst of norm diffusion; (3) Latin-America's relatively powerful regional human rights institutions intervened on behalf of IDPs; and (4) the regional hegemon, driven largely by regional concerns, pressured Colombia to address its displacement crisis and contributed to capacity building. Below I elaborate on each of these factors in more detail.

Regional Cultural Match

In general, international norms have different levels of "cultural match" at the regional level as well as at the national level. International norms may or may not resonate with preexisting regional norms and institutions. This study found that the Guiding Principles had a comparatively strong resonance in Latin America primarily because their emergence coincided with the culmination of a regional peace process in Central America, where the issue of internal displacement was addressed at the interstate level.

A decade prior to the elaboration of the GP, Latin America already had in place an elaborate refugee regime that recognized internal displacement as an issue of regional concern and set in place a number of measures to address displacement. The clearest example of this was the non-binding 1984 *Cartagena Declaration on Refugees*, which was adopted by the Contadora Group (Mexico, Venezuela, Colombia and Panama) and countries in Central America to address the refugee crisis resulting from the civil wars in Central America. Partly because of this, the international IDP regime had perhaps a much easier reception in the region. Colombia, for example, based much of Law 387 on regional norms while the GP were still being drafted.

More generally, Latin America has historically stood in stark contrast to other regions of the world in its acceptance of human rights norms. In East Asia, for example, tightly-held traditional conceptions of national sovereignty has led countries to eschew any sort of international intervention in domestic matters. Not surprisingly, human rights norms have had a difficult time taking hold in that region (Acharya, 2004; Katzenstein, 2005).

Regional Concentration of Transnational Activism

Transnational human rights activism can take place simultaneously at the international and regional levels. At the regional level, transnational activist networks (TANs) benefit from a number of factors, absent in the larger international context, that greatly facilitate the exchange of ideas and expertise. This includes a more concentrated flow of people and information, geographical proximity, a shared language, cultural and historical similarities, as well as the existence of regional governance institutions.

The development of Colombia's internal displacement laws and policies illustrates the importance of regional activist networks in promoting commitment and compliance with international human rights norms. During the early 1990s, as shown in Chapter Three, Colombia's IDPs benefited from NGOs and regional initiatives that emerged as a result of the peace processes in Central America (Cohen & Sanchez-Grazoli, 2001). One of these, The *Permanent Consultation on Internal Displacement in the Americas* (CPDIA), was instrumental in helping the Colombian government draft Law 387 in 1997. Colombia's new law even adopted CPDIA's definition of IDPs, without discussion.

During the early 1990s, Colombia's IDP and human rights organizations also received significant funding, training, and symbolic support from human rights organizations form Central America and Peru (i.e. ICVA). The intervention of these Latin American NGOs allowed Colombian activism to gain legitimacy and become much more effective in challenging the government.

Two decades later, Colombia's victims' movement (headed by *Víctimas Visibles*) imported the idea of a Victims' Law from a similar movement in Spain. In calling for the institution of a Victims' Law in Colombia, domestic activists also benefited from the symbolic support and expertise of the Spanish government (Cristo, 2012). Even though

Spain is technically situated in another region, its cultural, economic, political and historical links to Colombia were instrumental in facilitating the transplantation of this idea. Not surprisingly, given its geopolitical interests and historical connection to Latin America, Spain has played the role of "norm entrepreneur" in the region on a number of other issues including, for example, helping to promote the rights of the LGBT community (Friedman, 2012).

Regional Institutions

Historically, regional intergovernmental bodies – and particularly human rights institutions – have been engines of norm diffusion. They can exert normative pressure from above by issuing binding legal decisions, cease and desist orders, and more generally through a strategy of "naming and shaming" states with poor human rights records. They can empower and provide greater legitimacy to marginalized domestic movements by giving them a voice and access to international forums through which to push forward these movements' agendas and challenge their governments. Regional judicial bodies can also support the decisions of domestic courts and human rights institutions. More generally, like other international organizations, regional institutions can also be the engines of socialization of political elites through persuasion, mimicry and peer pressure (Checkel, 2005; Johnston, 2001).

In the case of Colombia, it is clear that the OAS and in particular its human rights system embodied by the Inter-American Court and Commission on Human Rights, played a pivotal role as both structures and agents of norm diffusion. For more than two decades, both bodies applied constant pressure on the Colombian government to assist and protect IDPs by conducting country visits, holding public hearings, publishing

scathing reports, and issuing a number of court rulings and precautionary measures for IDPs. During the 1990s ,they called international attention to the crisis in Colombia, and provided Colombian human rights activists with a forum in which to challenge the Colombian government. A decade later, the Inter-American System supported the efforts of Colombia's Constitutional Court to hold the Colombian government accountable for its commitments on internal displacement.

As a structure, the Inter-American Human Rights System was also the site of norm socialization of governing elites. Over time, repeated interactions with Colombian government officials forced to respond to concerns and criticism inevitably sensitized the Colombian government to the language of human rights. The system also contributed to the formation of an important number of Colombian jurists, who, at one time or another worked at the court or the commission before returning home to become agents of change.

Neighboring Hegemon

The actions of the United States, arguably the most important international hegemon in the region, played a key role in pushing Colombia to comply with the IDP regime. Although the US has historically acted as both a global and regional hegemon, its posture towards Colombia's displacement crisis can only be understood within the context of regional dynamics.

The US' international promotion of IDP norms, and human rights in general, has been very selective. Whereas the US has been known to vigorously push for human rights advances in certain countries and regions of the world (i.e. Cuba, South Africa, and Iran), it has also ignored other crises altogether (i.e. Saudi Arabia, and most of Sub-

Saharan Africa). Although the US, in principle, supports the IDP regime and includes internal displacement as an item of concern in its 2002 National Security Strategy report (Bush, 2002), it has been selective in advancing the IDP agenda.[252]

During the 1990s and 2000s, the US became increasingly concerned with the state of human rights and internal displacement in Colombia. This preoccupation was in many ways the result of the US' prior experience in the hemisphere and in particular its involvement in the conflicts in Central America during the 1980s. Well-publicized atrocities in Guatemala, Nicaragua and El Salvador shaped the imagination and sensibilities of a generation of US activists and policy-makers who wanted to avoid involving the US in human rights violations. These Americans sought to balance military assistance for its war on drugs with measures to promote human rights protections. This became particularly urgent during a time when the US was increasingly vilified and isolated in the hemisphere as a wave of left-wing populism took hold of the region.

As a result of this stance, US military assistance and later trade relations became, to a certain extent, conditional on advancements in human rights arena. The US maintained the issue of Colombia's internal displacement crisis on its bilateral relations agenda. As described in Chapter Four, through Plan Colombia, the US financed a number of capacity building measures and facilitated institutional reform that made it easier for Colombia to comply with IDP norms. Among other things, US assistance helped to fortify social institutions and elements within the Colombian government that championed the rights of IDPs.

Overall, the case of Colombia illustrates well the need to take into account the regional context in order to understand the diffusion of human rights norms. The various

[252] Telephone interview with Jeff Drumtra ((Policy Advisor, US Department of State's Bureau of Population, Refugees, and Migration, Office of Policy and Resource Planning). March 8, 2012.

normative and instrumental mechanisms of norm diffusion identified in the case of Colombia's deepening compliance with the IDP regime are admittedly universal. To one extent or another, they have been applied to other cases of displacement in other regions of the world with mixed success. These mechanisms and the structural factors described are necessary but not sufficient engines of compliance. It is not until the regional context is added that the full picture materializes. Ultimately, the big lesson of this study is that we need to pay attention to the broader regional context.

REGIONAL ADVOCACY IN PRACTICE

As with many insights in international relations theory, this is not necessarily news to international human rights practitioners and norm entrepreneurs. From the inception of the regime in the early 1990s, norm entrepreneurs at The Brookings Institution and the United Nations intuitively understood the importance played by regional factors.

In a book published the same year that the GP were introduced, its principal authors, Roberta Cohen and Francis Deng, argued that in the presence of an often unwilling and ineffective UN system, regional institutions were "likely candidates to become the first line of defense" in preventing situations of internal displacement and protecting its victims (1998b). An entire chapter of their book *Masses in Flight*, in fact, was dedicated to analyzing and suggesting possible regional responses.

One of the results of this insight is that norm entrepreneurs have allocated their limited resources to focus their attention on Sub-Saharan Africa, where the internal displacement has historically been most prevalent, by pushing for binding regional conventions on internal displacement. This explains, in great part, the efforts that went

into creating the *Kampala Convention*, the *Great Lakes Protocol*, choosing an well-respected African diplomat as the first RSG and a promising young African jourist as the third and current RSG.

It is difficult to ascertain to what extent the study's findings regarding the regional dynamics of the IDP regime are generalizable to other international regimes. Evidence of similar regional clustering phenomena with regards to other international normative regimes would suggest that, in general, regional factors are important for the process of norm diffusion. This study's findings, however, are more likely to be generalizable to the diffusion of other types of human rights norms. These types of norms are particular in the sense that they are motivated by moral principles, they are essentially non-economic, they relate exclusively to the internal affairs of countries and do not really seek to resolve problems of a collective action.

COMMITMENT VS. IMPLEMENTATION

As discussed in Chapter One, commitment to and implementation of international norms are two distinct concepts. Commitment refers to a state's signaling mechanism that it intends to comply with a given norm. In the case of "hard law" instruments, such as international human rights treaties or conventions, countries' signal their commitment by formally adopting and ratifying a legal document. For countries to signal meaningful commitment to a "soft law" regime, like the IDP regime, they must at a minimum institute domestic legislation that effectively makes these principles the "law of the land." In principle, countries can commit to and then fail to implement an international norm.

Implementation, on the other hand, refers to the process of putting international norms or obligations into practice by incorporating them into domestic law and then

enforcing these laws (Shelton, 2000). It is a critical step towards compliance (Shelton 2009). At the very minimum, implementation of the GP involves the codification of laws and policies on displacement, the allocation of the necessary budgetary and institutional resources, the monitoring and enforcement of these laws, and the continuous collection of data on the displacement situation.

As has been often the case with other human rights norms, this study confirmed that commitment to the IDP regime is not necessary followed by implementation or, for that matter, compliance with these norms. Several studies have shown that there is often a decoupling between the ratification of human rights agreements and countries' human rights practices (E. M. Hafner-Burton & Tsutsui, 2005; E. M. Hafner-Burton et al., 2008). Although they have found that human rights treaties exert independent global civil society effects that improve states' actual human rights practices in general, repressive regimes often commit to these instruments as a matter of window dressing (E. M. Hafner-Burton & Tsutsui, 2005).

Because commitment with Soft laws, such as the Guiding Principles, involves much higher transactional costs than treaties, soft laws would arguably present countries with less of an opportunity to use commitment as window dressing. After all, countries must go to greater lengths to signal credible commitment with the IDP regime by instituting domestic legislation on displacement.

The Colombia case study demonstrates that this is not necessarily the case. Although Colombia's Law 397 of 1997 represented at the time arguably the most promising and comprehensive legal framework on displacement, the Colombian government did not begin to properly implement it until many years later, when Colombia's Constitutional Court intervened forcefully in 2004.

In the absence of any sort of international enforcement or monitoring mechanisms, compliance depends largely on the ability of domestic actors to mobilize, monitor and hold the state accountable. These actors may include IDP groups, human rights activists and an independent judiciary. These can certainly take advantage, as was the case in Colombia, of the support of international allies who can exercise instrumental and normative pressure on the state from abroad. In the absence of these domestic factors the prospects of implementation and compliance of IDP laws would appear to be bleak.

Transnational Activist Links are Essential

Commitment with the IDP regime depends in great part on the existence of transnational activist links. In the case of Colombia, a country with a comparatively vibrant civil society, domestic activists initiated the call to address the displacement crisis. It was not, however, until they linked up with international and regional networks of norm entrepreneurs that their movement developed any traction. The efforts of various regional human rights NGOs and UN entities, many of which set up a presence in the country during the 1990s, served as important catalysts for the government to recognize the internal displacement crisis and its responsibility to address it in accordance with international norms.

Before international human rights organizations began to focus on Colombia's displacement crisis, Colombia's domestic activists were fractured, marginalized and often intimidated by the government's security apparatus and paramilitary agents. It is unlikely that they would have achieved much traction on their own. As illustrated in chapters 4 and 5, Colombia's deepening compliance with these norms was also greatly dependent on

the cooperation between sympathetic domestic state agencies and advocacy groups with international activists, donors and intergovernmental organizations.

UNHCR

The large-n statistical analysis showed that, after initial reluctance to move beyond their original mandate, UNHCR's presence in host countries was significantly correlated with: (1) an attenuation of displacement crises, and (2) an increasing likelihood that host countries will commit to the IDP regime by enacting domestic legislation. Because UNHCR operates in countries with displacement at the behest of their governments it is probable that these correlations may not indicate causation but rather may both be the result of other external factors. The case study on Colombia, however, indicated that UNHCR did play an important role in the drive to institute and implement policies on displacement in accordance with the GP. This should be encouraging news to an international humanitarian community which has been at times frustrated with what they perceive to be a lack of commitment on the part of UNHCR to spearhead the promotion of IDP rights.

The Colombian case also illustrated how other UN agencies, and in particular UNDP, played a critical role in promoting the regime. As illustrated in Chapter 5, UNPD in fact played a much more central role in the institution of Colombia's *Victims and Land Restitution La*w than any other international entity.

Domestic Institutions

There are a number of explanatory factors embedded in domestic institutions that enabled the implementation of IDP norms in Colombia. These included the existence of a vibrant civil society with an independent press, sophisticated academic institutions and

activist organizations. It included an independent and strong judiciary willing to challenge the government and to keep it accountable to its promises. Finally, it included presidential leadership.

A head of state may decide to champion international IDP norms for ideological reasons, for purely instrumental reasons, or most likely, as a result of a combination of theses two factors. Commitment to human rights advances can instill an administration with international and domestic legitimacy in a time of crisis. In the face of transnational mobilization on behalf of a country's IDPs, strategic concessions may help nations' leaders deflect criticism, foment important alliances, and solidify their hold on power. It is clear that, in the case of Colombia, both presidents Samper (1994-1998) and Santos (2010 -) benefited from a boost of international legitimacy when they instituted important IDP reforms during a time when Colombia suffered from international isolation. Both presidents were also arguably more politically progressive than their predecessors, which would suggest that they were particularly receptive to human rights claims.

In my view, strong domestic institutions are a necessary but not sufficient conditions for implementation. These domestic institutional factors, after all, have been present for most of Colombian modern history. They alone could not explain the country's process of deepening compliance. It was only by considering international normative and instrumental pressure that the story of Law 387 of 1997, Decision T-025 of 2004, and Law 1448 of 2011 can be fully explained. On the other hand, it is unlikely that in the absence of these domestic factors Colombia, or any other country could move beyond commitment.

FUTURE RESEARCH AGENDA

Although the story of Colombia's road to compliance with the international IDP regime is in many ways enlightening, it is admittedly difficult to generalize from a single case study. Conclusions drawn exclusively from a single case pose a problem of external validity. I have attempted to address this problem by including in my study a large-n statistical analysis, which includes all documented cases of displacement for the past two decades. While the quantitative analysis supports the case study's findings regarding the importance of regional factors, without further in depth structured comparative case studies it is difficult to say for certain how regional factors operate outside of Latin America.

Additional comparative structured case studies of countries in other regions of the world would be necessary to confirm this study's findings. I would suggest choosing to study countries that are in some ways comparable to Colombia. Specifically, it would be useful to examine mid-sized and middle-income countries that have similar displacement crises. These would be crises characterized by a large number of IDPs (over one million), displaced over several decades and as a result of protracted low-intensity insurgencies. Two cases that suggest themselves are Turkey and the Philippines.[253] Below I elaborate in more detail on the appropriateness of each of these cases and I suggest a third, more puzzling cases (Sudan), which could shed further light on the decoupling of commitment and implementation. I also present a brief overview of each of these crises and suggest several interesting lines of inquiry.

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[253] Colombia, Turkey and the Philippines exhibit similar patterns of IDP settlement, outside of refugee camps, among the urban poor, which makes IDPs significantly less visible. Although currently Colombia has a much larger total estimated IDP population than both the Philippines and Turkey its rate of displacement historically has been slow (characterized as "gota a gota" or "drop by drop") and relatively invisible given the fact that, as in Turkey and the Philippines, IDPs in Colombia have tended to blend among the urban poor rather than concentrate in highly visible refugee camps.

Turkey

Turkey represents a very interesting case to examine in its own right and in comparison to Colombia. Like Colombia, Turkey has a significant IDP population as a result of a protracted, low intensity insurgency. Turkey has also instituted a number of laws and policy reforms that signal some commitment to the international IDP regime even though their protection framework is not nearly as comprehensive as Colombia's.

The Internal Displacement Monitoring Centre (IDMC) estimates that there were between 954,000 and 1.2 million IDPs in Turkey as of the end of 2013 (representing until recently the largest IDP population in Europe, the Caucasus and Central Asia) (IDMC, 2014a). Most of Turkey's displaced fled their homes between 1986 and 1995 as a result of a 30 year-long armed conflict between state security forces and Kurdish separatists in the southeast of the country. Significant displacement has also been attributed to village raids and forced evacuations by state authorities in Kurdish areas.

Like Colombia, Turkey has been negotiating with insurgents, particularly after the capture of the PKK leader, Abdullah Ocalan in 1999 and the announcement of a subsequent ceasefire. Currently peace talks appear to have stalled despite some concessions made by state officials and institutions on Kurdish issues.

Like Colombia, most IDPs have been left to fend for themselves. Around half live in cities close to their places of origin such as Batman, Diyarbakir, Hakkari and Van. The rest live mainly in urban areas of western and northern Turkey. Many live in substandard, illegally built housing and are at risk of eviction.

Located at the crossroads between Europe and Asia, Turkey represents a particularly interesting case with which to evaluate the influence of regional effects on norm diffusion. Over several decades the country's political leadership has fluctuated between periods of closeness and distancing from the West. At times Turkey has

seemingly embraced western values and sought greater integration with its European neighbors. At other times, it has distanced itself from the West, asserting its sovereignty. These regional swings have arguably affected the country's attitude towards international human rights and, in particular, its approach to the Kurdish question.

During the 2000s Turkey also exhibited a number of necessary conditions for implementation as identified in this study. This included a democratic opening initiated by the election in 2003 of Prime Minister Recep Tayyip Erdogan. It also included a shift in balance of the conflict with the PKK marked by the capture Abdullah Ocalan in 1999 and the PKK's subsequent renunciation of violent methods of struggle.

Because Turkey falls arguably close to the European/Western "sphere of influence," I would expect it to represent a "most likely" case of commitment. Turkey is a founding member of the Organization for Economic Co-operation and Development (OECD). It has been a member of the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe and the North Atlantic Treaty Organization (NATO) for several decades and is in the process of applying for membership to the EU. In the eyes of norm entrepreneurs this has presented important institutional opportunities for European powers and human rights activist networks to pressure the government to comply with the IDP regime (Cohen, 1999). Some observers believe that the EU was a particularly strong motivator for Turkey to recognize the problem of internal displacement in the first place.[254] IDMC for example has been seeking, with some success, to include the issue of internal displacement in to the European accession

[254] Telephone interview with Simon Bagshaw (OCHA, Protectioon and Diaplacement Officer, Policy Development Branch). May 9, 2012.

program.[255] They credit this process with providing a strong driver for countries in the Balkans to address internal displacement.[256]

It would be interesting to learn what role the European Union played, if any, in pressuring Turkey to address displacement as a condition for membership in the early 2000s. How influential was the European Human Rights System (including the *European Court of Human Rights* and *European Commission on Human Rights*) in affecting the country's IDP policy? To what extent was Turkey's policy influenced by advances in other countries in the region (Europe, the Caucasus and Central Asia) such as in Georgia, Azerbaijan, and Armenia? How much of it was due to purely domestic factors?

In 1997, the EU excluded Turkey from membership and the European Parliament blocked development aid citing human rights concerns. This encouraged norm entrepreneurs to utilize early on these institutions as avenues for action (Cohen, 1999). It would be important to establish what effect, if any, this had on Turkish policy. Several years later, during the late 2000s, country experts noted that Turkey underwent an alleged "Eastward Shift," distancing itself from Europe (Flanagan & Brannen, 2008). A comparative study could determine if this shift had any significant effect on the country's approach to Kurdish IDPs as some international activists feared. A study on Turkey would also seek to trace the events that led Turkey to institute a number of important laws and policies on internal displacement during the mid 2000s, such as Law 5233 O*n*

[255] Telephone interview with Nadine Walicki (IDMC, Country Analyst). April 19, 2012.

[256] Ibid.

the Compensation of Damages that Occurred due to Terror and the Fight Against Terrorism (July 2004) using a similar methodology as the Colombian case study.[257]

The Philippines

IDMC (2014a) estimates that The Philippines is currently home to at least 115,800 IDPs. At its peak in 2008, the country's IDP population was estimated to have reached approximately 600,000 (IDMC, 2014a). Most of the displacement occurred in the southern region of Mindanao, one of the country's poorest regions, where the government has fought a secessionist Moro (Muslim) insurgency for over 40 years. It is estimated that at least 3.5 million people have, at one point or another, been displaced in the Philippines since 2000, but many returned home after violent episodes subsided. While most of displacement has been episodic, some groups have remained displaced for years where insecurity has continued (IDMC, 2009). Over the years, millions more have been displaced because of natural disaster. The latest, Typhoon Bopha, alone is estimated to have displaced close to a million people.[258]

Because of its geographical location the Philippines represents a least likely case of compliance with the IDP regime. As a region East Asia and the Pacific Rim has historically been the most resistant to the diffusion of IDP norms. Although the region has been the site of significant displacement crises in the past two decades (i.e Indonesia, Myanmar, Thailand, Philippines, East Timor, among others), to date not a single country

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[257] A study on Turkey should also look at this law's subsequent amendments, as well as the institution of Regulation No. 7955 on *Compensation of Losses Resulting from Terrorist Acts and Measures Taken against Terrorism*, (October 2004), the *Integrated IDP Strategy Document* (August 2005), and the *Van Provincial Action Plan for Responding to IDP Needs* (2006).

[258] "Philippines passes historic bill to protect internally displaced." UNHCR. (February 8, 2013). (http://www.unhcr.org/5114dd5c9.html)

in the region has committed to the international IDP regime by instituting domestic legislation on displacement. Given the importance of regional factors in predicting commitment and compliance with the IDP regime, countries in East Asia/Pacific represent, on average, the "least likely" cases of compliance and should thus be included in future research.

There are several possible explanations of why international displacement norms and human rights in general have made such limited inroads in East Asia and the Pacific Rim. Although it is the largest and most populous region in the world, Asia lacks any sort of overarching regional structure similar to ones in Africa, Europe, and the Americas. According to Cohen and Deng (1998b), widely divergent political, economic and social systems as well as ideological differences have made it impossible for countries in the region to agree on such a body. The matter is further complicated by the fact that China, the region's largest and potentially most powerful state, has continuously opposed the importation of human rights models from other regions.

The only working regional grouping in Asia is the sub-regional organization, the Association of Southeast Asian Nations (ASEAN), headquartered in Jakarta. Its principal purpose has been the promotion of regional stability and economic cooperation. Although refugee issues have at times been discussed when they have spillover effects (i.e. mass exoduses from Indochina), ASEAN has not featured internal displacement in its agenda. ASEAN, in fact, has traditionally and scrupulously avoided taking positions on what it considers to be "internal" conditions within its member states (Cohen & Deng, 1998b). ASEAN, in principle, does not engage in the resolution of internal conflicts.

A second explanation concerns the so-called "Asian values" debate. Since their emergence as an area of international concern there has been a longstanding debate about the universality of human rights. The debate has revolved around nonwestern

conceptions of human rights, and in particular the question of Asia's cultural differences. A number of Asian leaders and (often well connected) intellectuals have in the past asserted claims of legitimate, culturally-based differences that justified substantial deviations from standard international interpretations of human rights (Donnelly, 2003). During the 1990s, both former Prime Ministers of Singapore, Lee Kuan Yew and Malaysia, Mahathir bin Mohamad famously used the "Asian values" argument to justify authoritarian government over democracy by claiming that "Asian values" were significantly different from Western values and included a sense of loyalty and foregoing personal freedoms for the sake of social stability and prosperity (Zakaria, 1994).

Although the merits of the "Asian values" arguments are dubious on many fronts (Donnelly, 2003), the fact that it has had such resonance illustrates the fact that internal displacement norms, and more generally human rights norms, arguably have had a limited reach in the region because of a weak "cultural match" (Acharya, 2004; Checkel, 1999). In her efforts to promote the Guiding Principles, Roberta Cohen, one of its main drafters, found it particularly hard to make any headway in the region. In her words, East Asia was a special case because countries continued to maintain that IDPs were a purely domestic responsibility.[259] She noted, for example, that India, a country with over 500,000 IDPs and 200,000 refugees, had not even ratified the 1951 Refugee Convention or its 1967 Protocol.

Within Asia, The Philippines would present a particularly interesting case study. Because The Philippines is a relatively democratic, middle-income country with historically strong ties to the West (i.e. strongly influenced by US interests) we would have expected the country to have been a relatively "easy target" for commitment with

[259] Interview with Roberta Cohen, (Co-founder and former Director of the Brookings Project on Internal Displacement). March 28, 2013. Washington, DC.

the IDP regime (Brands, 1992; Karnow, 2010). To date, however, the Philippines has yet to institute a domestic legal framework on internal displacement. International advancements by norm entrepreneurs have been slow. According to Elizabeth Ferris, the Co-Director of Brookings' Internal Displacement Project, by 2012 The Philippines was the only country to have ever refused to grant the RSG an invitation.[260] Nevertheless, in the very near future The Philippines could become the first country in the region to institute a comprehensive domestic legal framework for the protection of IDPs.

Compared to other countries in the region, the Philippines satisfies many conditions that would predict compliance with the GP and human rights in general. The Philippines is a democracy with a fairly progressive constitution and enjoys a comparatively vibrant civil society and an independent judiciary. Historically, the country has maintained close relations with the US. For the first half of the 20th century The Philippines was an American colony. Today the country is considered by the US to be a key economic and strategic partner in the region. The US currently operates over 20 military bases in the country. Between 2001 and 2010 it is estimated that the US provided The Philippines with more than $507 million in military aid.[261] In the past the US has shown some willingness to exercise this leverage to pressure The Philippine government to improve its human rights record. However, to the frustration of human rights activists, the US has appeared to be more interested in fighting terrorism and countering Chinese threats in the region than in seriously pushing for human rights

[260] Telephone interview with Elizabeth Ferris (Co-Director of the Brookings-LSE Project on Internal Displacement). February 23, 2012.

[261] See: "US has given Philippines over $507M in military aid, says Thomas." *Philippine Daily Inquirer*. (November 1, 2011).

improvements in the country.[262] Overall, it is not really clear why, unlike the case of Colombia, the US has not played a greater role in supporting the development of domestic legislation on displacement in the Philippines. This may be due partly to the existence of very different regional dynamics and to the absence of vigorous regional human rights networks.

During the past decade negotiations have taken place between insurgents and The Philippines' government. This culminated with the signing of a peace accord in Kuala Lumpur in January 2014, which paved the road for the creation of a Muslim autonomous entity named "Bangsamoro" and called for self-rule in some parts of the southern Philippines in exchange for the demobilization of separatist armed groups.

During the past decade there has also been a push to formally commit to the GP by instituting domestic legislation to protect the rights of the IDPs. In 2013, The Philippine's Congress finally passed a comprehensive bill on internal displacement. This law project, which was hailed by UNHCR as a model example for other countries, would make The Philippines the first country in the Asia-Pacific region to have comprehensive legislation that protects people against arbitrary displacement and guarantees the rights of the internally displaced in accordance with the UN Guiding Principles.[263]

The bill sought to prevent displacement and outlined the rights of IDPs during and after displacement. Among other things, it imposed heavy penalties against arbitrary internal displacement of any person and provided for monetary compensation for lost or damaged property or for the death of family members. The law also designated the *Commission on Human Rights of The Philippines* as the focal point for the protection of

[262] See: Shahshahani, Azadeh. "US Aid and Human Rights Violations in Philippines." *The Huffington Post*. April 4, 2014.
[263] Ibid.

IDPs.[264] In May of 2014, however, President Benigno Aquino III vetoed the law, arguing that some of its provisions were unconstitutional. A revised bill has been tabled towards the end of the 2014 (IDMC, 2014a).

An in depth case study of the Philippines could carefully trace the mechanisms that have been pushing through this law project. It could help illuminate a number of important questions: What took the Philippines so long to commit to the GP? What motivated the country's policymakers to propose comprehensive IDP policies in The Philippines at this time? In the absence of regional human rights institutions and activist human rights networks and a strong regional culture of national sovereignty and non-interference what made the difference?

Sudan

With an estimated 12.5 million IDPs, Sub-Saharan Africa accounts for more than a third of the world's internally displaced population. As a result of internal conflict, state failure and ethnic strife, internal displacement has been a permanent feature of the region since the end of the Cold War. As of 2013, 21 countries suffered from internal displacement (and 15 of these from protracted situations of displacement). Nigeria, the Democratic Republic of the Congo (DRC) and Sudan had the largest populations of IDPs in Africa, and were closely followed by Somalia and the Central African Republic (CAR).[265] Not surprisingly, due to the large dimensions of the problem in the region, displacement in Sub-Saharan Africa has attracted significant attention of international

[264] Ibid.

[265] See: IDMC. *Internal Displacement in Sub-Saharan Africa*. (http://www.internal-displacement.org/sub-saharan-africa/summary/) Last visited 12/16/14.

donors, norm entrepreneurs, and humanitarian workers. Further research on patterns of commitment and compliance with the GP needs to take a look at Sub-Saharan Africa.

The Sub-Saharan region is also interesting because it has developed legally binding treaties on internal displacement. In 2012 Africa enacted the *Kampala Convention* – the first binding regional convention for the protection of IDPs. Formally known as the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa*, the Kampala Convention it is the world's first continental instrument that legally binds governments to protect the rights and wellbeing of IDPs. Among other things, the convention established a legally binding definition of IDPs and outlines general provisions for the prevention and mitigation of internal displacement. It outlaws actions that lead to arbitrary displacement and holds all actors responsible for displacement, including private and multinational companies, accountable for their actions. Most notably the Convention requires states to modify their national criminal law in order to "declare as offences punishable by law acts of arbitrary displacement that amount to genocide, war crimes or crimes against humanity" (Article 4(6)) (Kamungi, 2010). It reinforces states' primary responsibility to protect IDPs and promotes the adoption of national legislation and policies, in line with the GP, to protect and assist IDPs. It requires states to collaborate with civil society and humanitarian organizations to ensure IDPs' protection and assistance if they do not have the resources to do so themselves also makes national authorities responsible for creating the conditions required to achieve durable solutions (IDMC, 2014b). Although it is still too early to determine its effectiveness in alleviating the plight of IDPs it undoubtedly constitutes a historical milestone for the diffusion of the Guiding Principles, making the region a critical area of study.

Prior to the Kampala Convention, a number of countries in the region took an early lead in addressing the needs and protecting the rights of IDPs. Burundi (2000), Angola (2001), Sierra Leone (2001), Liberia (2002), Uganda (2004), Sudan (2009) and Kenya (2012) have put in place domestic legislation on displacement during the 2000s. Among these, Sudan perhaps represents the most important, and certainly the most puzzling case of commitment with the GP.

Displacement in Sudan has been the result of a number of protracted internal conflicts. These include the two notoriously bloody civil wars with the South (1955-1972 and 1983-2005)[266] that resulted in the death and displacement of millions of people, and a war in Darfur (2005- ongoing), in the western part of the country, which has claimed the lives of hundreds of thousands of civilians and prompted international accusations of genocide.

Sudan for many years, prior to the secession of the South, had the dubious distinction of being the country with the most IDPs in the world. Perhaps for this reason a former Sudanese diplomat, Francis Deng, was chosen in the 1990s to become the first UN special representative on displacement. Sudan also constitutes one of the world's clearest cases of regime-induced displacement (Orchard, 2010a). The government in Khartoum, historically controlled by the Islamic Arab majority, has orchestrated directly and indirectly a number of ethnic cleansing campaigns against minority groups in order to maintain control over the country's vast oil reserves. For several decades, Sudan has continuously denied allegations of genocide, defied the international community's call for an end to hostilities, and blocked humanitarian aid. In many ways this has made Sudan a pariah state.[267] In 2008 the International Criminal Court indicted Sudan's

[266] Sudan's Second Civil War resulted in the breakup of the country and the creation of South Sudan…
[267] See: "Sudan's War on Itself; From Rogue State to Pariah State." *New York Times*. May 16, 2004.

longtime ruler Omar Al Bashir for genocide, crimes against humanity, and war crimes in Darfur. Despite constituting by several measures a "least likely" case of compliance with the international IDP regime, in 2009 Sudan instituted very comprehensive domestic legislation on internal displacement.

Sudan's signal of commitment with the IDP regime presents a serious puzzle. Why would one of the world's biggest violators of IDP rights choose to commit to the IDP regime in 2009? To what extent was commitment driven by international pressure? To what extent was it a purely domestic matter? To what extent is Sudan instituting and complying with these laws?

One possible interpretation of Sudan's development of domestic legislation on displacement is that it represents a cynical move to appease international pressure and was not really intended to alleviate the plight of the millions' of Sudanese IDPs. Another possible explanation is that it was an attempt to address the Khartoum grievances of the Southern Sudanese and stall the region's move towards secession. If these laws were in fact an exercise in "window dressing," it would be interesting to ascertain the extent to which commitment to the IDP regime paid off and lessened the country's international isolation. It would also be important to investigate whether Sudan's commitment to the regime has produced any sort of regional effect, perhaps prompting other norm violators to take the regime more seriously. Has it, instead, devalued the seriousness of these norms?

There are a number of additional countries whose responses to the international IDP regime could shed additional light on the research question. I believe that the cases listed above (Turkey, The Philippines, and Sudan), however, could offer the most interesting comparison to Colombia and offer important contributions to our

understanding of the importance of regional dynamics as they relate to compliance with IDP norms.

As with the Colombian case study, a comparative structured study of Turkey, the Philippines and Sudan should employ a qualitative process tracing methods. More specifically, these studies should carefully trace the chain of events that lead to countries to put in place, or fail to put in place, domestic policies for the protection and assistance of IDPs in compliance with the international IDP regime.

Although some published information (particularly reports by organizations such as UNHCR, IDMC, and the Brookings Project on Internal Displacement) may assist researchers in telling the story of IDP politics in these countries, any in-depth case study would most likely have to rely primarily on data derived from extensive elite key informant interviews. The targets of these interviews should, at a minimum, include: domestic and foreign force migration and human rights activists, international observers, country experts, domestic policymakers, and representatives of UN agencies and other humanitarian organizations involved with IDPs.

It may admittedly be less feasible replicate the research performed in Colombia in Turkey, the Philippines and Sudan because these three countries are, at the very least, home to more restrictive societies. For this reason information derived from key informant interviews is particularly critical. Nevertheless, the perspective of strategically placed individuals in these countries may help researchers to reconstruct the story of efforts to promote the IDP protections in these countries and test the validity of the hypotheses and nascent results that came out of the Colombian case study.

CONCLUSION: POLICY IMPLICATIONS AND RECOMMENDATIONS

During the last two decades of the 20th century, internal displacement arose as an urgent humanitarian problem. To this day the problem has only continued to grow showing no signs that it will disappear anytime in the near future. However, thanks to the efforts of a tireless and ingenious group of norm entrepreneurs the world today has in place an international regime to protect these vulnerable masses. The evidence suggests that a regime based on "soft law" has increasingly made a difference on national policies and practices. Over the years, a growing number of countries have committed to and have begun to comply with the Guiding Principles on Internal Displacement. The norms have become effectively disseminated within humanitarian circles and, for the most part, are taken for granted by the international community. They are also slowly hardening through the creation of customary international law and the elaboration of binding regional treaties.

This is in many ways a success story for international human rights activism. The emergence of the international IDP regime demonstrates how principled advocates operating largely outside of traditional international rule-making frameworks can make a real difference in the lives of millions of people. In Colombia alone, people escaping the conflict today enjoy a level of recognition and a set of guarantees and protections that would have been unimaginable a generation ago.

However, this study also demonstrates that commitment and compliance with IDP norms is not taking place uniformly around the globe and that there are glaring differences across regions in terms of commitment and compliance. This difference can be attributed to a number of complex regional factors (such as culture, regional integration, the role of regional hegemonic powers, and the density of regional human

rights networks) for which there is no easy policy solution. There are, nevertheless, a number of steps that the international community can take, and continue to take to address the regional gap in commitment and compliance.

First, and perhaps the principal lesson of this systematic and global study of commitment and compliance with the IDP regime is that efforts to promote the rights of IDPs need to move from the global to the regional arena. It is evident that norm entrepreneurs intuitively understand this. Efforts to develop binding regional treaties and conventions on displacement are a step in the right direction. The Kampala Convention, which came into force in 2012, was arguably a monumental achievement.[268] Norm entrepreneurs should make efforts to replicate such an agreement in other regions – most notably East Asia/Pacific and the Middle East.

Second, international governmental and non-governmental organizations, such as the Brookings Project on Internal Displacement, IDMC, UNHCR, the EU, the OAS and AU should continue to facilitate opportunities for the exchange of ideas and expertise on displacement and foster the regional dissemination of the GP. Some clear examples include regional conferences where advocates, academics, humanitarian workers and government entities learn from each other's experiences. A number of displacement experts I interviewed believe that countries' failures to institute policy measures to address displacement often times have more to do with their capacity and expertise than a lack of political will. This study should encourage the creation of the type of regional organizations like the Permanent Consultancy for Displacement in the Americas (CPDIA), which played a key role in assisting Colombia to draft its IDP laws. Along these lines, norm promoters should continue to cultivate transnational advocacy links to

[268] IDMC. *Briefing Paper: The Kampala Convention two years on: time to turn theory into practice*. December 8, 2014.

draw domestic IDP and human rights groups out of the isolation in which they often find themselves. They should continue to support domestic advocates and sympathetic government entities with financing, training and technical capacity building.

The case of Colombia illustrates how international donors like the European Union and the United States can play a central role in the implementation of IDP norms. The Guiding Principles, after all, are complex and expensive propositions to put into force. Donors can contribute to the implementation of IDP laws by providing fragile countries with urgently needed financing to organize the relevant state bureaucracies and fortify national human rights institutions (such as the office of the ombudsman). Donors can also contribute to efforts of national consolidation, to expands the presence of the state authorities in historically marginalized or conflict zones and to facilitate their access to IDPs. In particular, they should concentrate on promoting the development of effective and independent courts. As illustrated in Colombia, in the absence of international monitoring and enforcement mechanisms, implementation may depend on a strong domestic judiciary to keep governments accountable.

The international community should continue to support the role of UNHCR as the international institution for internal displacement. This study's findings suggest that the organization, which reluctantly broadened its mandate to include internal displacement, is indeed making a difference both in promoting host countries' commitment and in attenuating their displacement crises.

Finally, the international community should continue to maintain the issue of displacement high on the international agenda. Several humanitarian experts interviewed expressed their frustration that as internal displacement has become increasingly mainstreamed, IDP activism has lost much of its momentum. International attention has

moved on to other humanitarian concerns.[269] International advocacy groups and the RSG himself have become less outspoken on the issue over the years. Nevertheless, as the recent developments in Syria demonstrate, internal displacement continues to be an urgent humanitarian challenge of enormous proportions. Despite considerable advances made in the past twenty years significant work lies ahead. The international community needs to move beyond rhetoric and into action. Millions of lives around the globe depend on it.

[269] Interview with Andrea Lari (Programs Director, Refugees International). March 29, 2013. Washington, DC. Telephone interview with Simon Bagshaw (OCHA, Protectioon and Diaplacement Officer, Policy Development Branch). May 9, 2012. Telephone interview with Joel Charny (InterAction, Vice President for Humanitarian Policy and Practice). April 4, 2012.

Appendix A: Guiding Principles on Internal Displacement

SECTION I - GENERAL PRINCIPLES

Principle 1

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.
2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

Principle 2

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.
2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

Principle 3

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.
2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

Principle 4

1. These Principles shall be applied without discrimination of any kind, such as race, color, sex, language, religion or belief, political or other opinion, national, ethnic

or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.

2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

SECTION II - PRINCIPLES RELATING TO PROTECTION FROM DISPLACEMENT

Principle 5

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

Principle 6

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.
2. The prohibition of arbitrary displacement includes displacement:

    a) When it is based on policies of apartheid, Aethnic cleansing or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;
    b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
    c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
    d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
    e) When it is used as a collective punishment.

3. Displacement shall last no longer than required by the circumstances.

Principle 7

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimise displacement and its adverse effects.

2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.
3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:

    a) A specific decision shall be taken by a State authority empowered by law to order such measures;
    b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
    c) The free and informed consent of those to be displaced shall be sought;
    d) The authorities concerned shall endeavor to involve those affected, particularly women, in the planning and management of their relocation;
    e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and
    f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Principle 8

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Principle 9

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

SECTION III - PRINCIPLES RELATING TO PROTECTION DURING DISPLACEMENT

Principle 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:

    a) Genocide;
    b) Murder;

c) Summary or arbitrary executions; and
d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:

a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
b) Starvation as a method of combat;
c) Their use to shield military objectives from attack or to shield, favor or impede military operations;
d) Attacks against their camps or settlements; and
e) The use of anti-personnel landmines.

Principle 11

1. Every human being has the right to dignity and physical, mental and moral integrity.
2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:

a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labor of children; and
c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 12

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.
2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.

3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.
4. In no case shall internally displaced persons be taken hostage.

Principle 13

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.
2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

Principle 14

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.
2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

Principle 15

Internally displaced persons have:

a) The right to seek safety in another part of the country;
b) The right to leave their country;
c) The right to seek asylum in another country; and
d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Principle 16

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.
2. The authorities concerned shall endeavor to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.
3. The authorities concerned shall endeavor to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.

4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the gravesites of their deceased relatives.

Principle 17

1. Every human being has the right to respect of his or her family life.
2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.
3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.
4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Principle 18

1. All internally displaced persons have the right to an adequate standard of living.
2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:

    a) Essential food and potable water;
    b) Basic shelter and housing;
    c) Appropriate clothing; and
    d) Essential medical services and sanitation.

3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 19

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.

2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counseling for victims of sexual and other abuses.
3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

Principle 20

1. Every human being has the right to recognition everywhere as a person before the law.
2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.
3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

Principle 21

1. No one shall be arbitrarily deprived of property and possessions.
2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:

    a) Pillage;
    b) Direct or indiscriminate attacks or other acts of violence;
    c) Being used to shield military operations or objectives;
    d) Being made the object of reprisal; and
    e) Being destroyed or appropriated as a form of collective punishment.

3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Principle 22

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:

a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
b) The right to seek freely opportunities for employment and to participate in economic activities;
c) The right to associate freely and participate equally in community affairs;
d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and
e) The right to communicate in a language they understand.

Principle 23

1. Every human being has the right to education.
2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.
   4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

SECTION IV - PRINCIPLES RELATING TO HUMANITARIAN ASSISTANCE

Principle 24

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.
2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

Principle 25

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.
2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be

arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.
3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

Principle 26

Persons engaged in humanitarian assistance, their transports and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

Principle 27

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.
2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

SECTION V - PRINCIPLES RELATING TO RETURN, RESETTLEMENT AND REINTEGRATION

Principle 28

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons.
2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall

have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Principle 30

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

Appendix B: Cox Proportional Hazard Model Diagnostics

An important assumption of the Cox model is that of the proportionality of hazard rates. The global test of the assumption failed to reject the null hypothesis that the assumption is valid, $\chi 2 \ = 5.09, df = 7, p = .6491$.[270] Thus, the semi-parametric model appears to be appropriate for the data.

Additional diagnostics were carried out using Schoenfeld residuals to identify outliers that may have been having undue influence on the results. Although none of the observations appeared to be imposing any disproportionate influence on the estimates, the observations with the highest *dfbeta* values (that had the largest impact on the size of each variable's hazard ratio) were investigated to confirm that the data were correct.

An additional analysis relied on Martingale residuals to evaluate the possibility that any of the interval and ratio-level variables should have been specified using an alternative functional form (Cleves, Gould, & Gutierrez, 2008). The plots did not reveal any systematic evidence that any logarithmic or other transformation would be necessary.

A final consideration concerning function form was that the effects of some variables might depend on the levels of another variable. For example, the effect of norms may be greater when the size of the crisis is larger, or the effect of physical integrity may be larger in one region than another.

Table 12 reports the results of testing these interactions. Each model contains only the main effects and interactions without any controls in order to minimize

[270] This test was carried out using Stata's `estat phtest` command. Because this option is not available following Stata's command for Cox regression on multiply imputed datasets, it was necessary to run the model on the non-imputed data and use the residuals from the missing data model for the test. The model coefficients were compared between the missing data and complete data analyses and found to be very similar. The alternative, given that no procedures exists in Stata for multiply imputed data sets, would have been to carry out no test.

multicolinearity effects. There are four different models testing for an interaction between normative variables and crisis size, since there were multiple variables measuring each concept. In addition, physical integrity is interacted with each region dummy. None of the interactions turns out to be significant, meaning that the functional forms assumed in Tables 3 through 6 are not inferior to a more flexible model that would allow for the effects of some variables to depend on the values of others.

Table 12: Check for Interaction Effects

	HR	SE	t	p	95%CI	
RSG Visit (Lag)	2.643	1.422	1.81	0.071	0.921	7.585
Relative Size IDP Crisis	63.158	178.331	1.47	0.142	0.249	>1,000
Interaction	12.347	46.601	0.67	0.505	0.008	>1,000
RSG Visit (Lag)	1.243	5.330	0.05	0.959	0.000	>1,000
IDP Estimates (Log)	1.568	0.401	1.76	0.079	0.950	2.589
Interaction	1.057	0.343	0.17	0.865	0.559	1.997
IDPs Protected by UNHCR	4.212	2.337	2.59	0.010	1.420	12.497
Relative Size of IDP Crisis	0.080	0.668	-0.30	0.763	0.000	>1,000
Interaction	802.857	6,997.051	0.77	0.443	0.000	>1,000
IDPs Protected by UNHCR	21.614	99.819	0.67	0.506	0.003	>1,000
IDP Estimates (Log)	1.683	0.435	2.01	0.044	1.014	2.793
	0.887	0.309	-0.34	0.731	0.448	1.757
Regional Density (Lag)	5.204	5.828	1.47	0.141	0.580	46.728
Relative Size of IDP Crisis	190.778	439.174	2.28	0.023	2.094	>1,000
Interaction	0.055	0.449	-0.35	0.723	0.000	>1,000
Regional Density (Lag)	102.396	963.622	0.49	0.623	0.000	>1,000
IDP Estimates (Log)	2.016	0.513	2.76	0.006	1.225	3.320
Interaction	0.858	0.626	-0.21	0.833	0.205	3.587
Europe-Central Asia	4.139	3.083	1.91	0.057	0.961	17.823
Physical Integrity	0.665	0.120	-2.26	0.024	0.467	0.948
Interaction	1.189	0.287	0.72	0.474	0.741	1.907
Latin America-Caribbean	4.103	4.044	1.43	0.152	0.594	28.321
Physical Integrity	0.826	0.109	-1.45	0.147	0.638	1.070
Interaction	0.674	0.279	-0.95	0.340	0.300	1.516

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